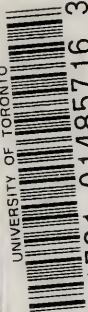


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THE  
CONSTITUTIONAL HISTORY  
OF  
THE UNITED STATES,  
FROM  
THE ADOPTION OF THE ARTICLES OF CONFEDERATION  
TO  
THE CLOSE OF JACKSON'S ADMINISTRATION.  
BY  
WILLIAM ARCHER COCKE.

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*In Two Volumes.*

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VOL. I.

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PHILADELPHIA:  
J. B. LIPPINCOTT & CO.  
1858.

~~1878 Sept. 25~~

~~Bill of~~

~~Prof. W. James Everett,  
of Cambridge,  
(Mass. 1879)~~

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## Dedication of the First Volume.

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TO KATE.

MY DEARLY BELOVED WIFE:—

I dedicate this volume to you as a feeble return for the happiness you have conferred by your constant kindness and affection. Your anxious solicitude has been among the great incentives to the laborious task. The favor with which it may be received by the public will be as highly cherished by you as by myself; and your smile of approbation will be regarded far higher than the plaudits of the world.

WILLIAM ARCHER COCKE.

RICHMOND, *July*, 1858.







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THE  
CONSTITUTIONAL HISTORY  
OF THE  
UNITED STATES.

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CHAPTER I.  
INTRODUCTION.

THE history of the civilized world presents every nation, with the exception of the United States, in the various shades of advancement, from the rude forms of barbarism to the full dawn of civilization. With the United States no such gradations have existed; our Mother Country had agonized through all the difficulties which attend a nation's rise and progress: from her we had gathered the seeds of free principles. In Old England our ancestors learned those wise and practical lessons, which, reducing the rigor of monarchy on the Island, resulted, when planted on American soil, to the full extent of their spirit, in application to the actual condition of man; where was known and practiced those moral and religious virtues which prove, in all societies and under every form of government, the only firm basis of civil liberty.

It is a source of brilliant delight to dwell on American history, and to trace the difficulties that oppressed the framers of our Constitution, mingled with the successful manner in which they were overcome, and the promulgation of those pure principles, whose splendor has only been surpassed by their practical force and utility. Our Government has always been free from those great fluctuations of public affairs, the vicissitudes of war and fortune, which characterized the Grecian republics, distinguished as they were by

pro prowess and patriotism; whilst the fancy and the genius of their citizens rose with the early light of science and civilization, like the star of morning. Yet the freedom and unrestrained license of the people made tyrants of those in authority. Power, untrained by high moral virtue, nor counteracted by an enlightened spirit of liberty, runs into abuse. In the Roman republic we at once detect the absence of that principle which proves the life-sustaining element of liberty, a virtuous constancy and reliance on the part of the people in the supremacy of law, as well as an abiding knowledge that the people were responsible for the administration of those laws; these truths found no existence in Rome. The people had but an ostensible power, which was always abused by the Senate with that indifference the latter received from the hands of the Consul. After the death of Tiberius, though the dying emperor was afraid to *declare* in favor of his grandson, it was known he secretly drew up a will in his favor. Here was an exercise of the absolute power of appointment, though concealed by a low fear of popular rights, which was equally despised as feared. It was deemed advisable to refer the matter to the Senate, from whom an act was obtained declaring in favor of Caius to the throne of the Cæsars. Tiberius had robbed the Senate of its legitimate power, while the latter for a time concealed its depravity by open and servile flattery to a monarch that despised them.

In tracing back the principle which appeared too dominant at all times—the weakness of the people in expressing their admiration for military renown, assuming the appearance of inordinate gratitude—we find it was early and forcibly manifested by the power they permitted military men to acquire; especially in the case of Julius Cæsar, a weak and depraved Senate was the unhallowed medium. This veteran officer and war-worn soldier returned to Rome after the siege of Marseilles, presented himself at once before a mutinous army, which he brought under arms in his presence, and appeased by his influence. He entered the city in triumph; was made dictator, which was said to be a nominal office; he was elected consul that he might, in exercising his power under the latter office, wield the unshackled prerogative of the former. Republican Greece and Rome made many advancements in civilization, but few in the science of government; every improvement was a revolution which obliterated the advantages

that preceded in the substitution of others scarcely better. They evidently bore the seeds of ultimate ruin, because they made conquest their chief object, war their pastime, delight, and study, to the too great exclusion of the knowledge and application of the moral virtues, which should have been mingled with an acquaintance and due appreciation of the arts and sciences, with that refining influence of the *belles-lettres* which improve the heart and polish the intellect without diminishing the strength of the mind or impairing the force of the sterner and more manful virtues of the hero.

A certain but limited advancement had been made by the English people long before the tide of emigration flowed toward America. They owe their highest and purest achievements to the House of Commons. Tracing it back to its earlier days, we find it invested with the slightest possible authority compatible with its existence. In the reign of Edward I. the House of Commons was assembled by legal authority, their powers confined to giving their assent to supplies to the crown. By gradual steps they began to assume dignity and influence. In the reign of Edward II. petitions were annexed to their bills by which subsidies were granted. During the reign of Edward III. they declared they would in future acknowledge no law to which they had not assented. It would prove an interesting and instructive lesson to trace the uniform progress of the House of Commons in reducing the rigor of the law from the period of their earliest efforts against the established hereditary monarchy, and the privileges and influence of an aristocracy sustained and pampered by the crown, whose greatest effort was to unite the destiny of the throne with the wealth, grandeur, and pomp that owed its existence in part, if not entirely, to the bounties it bestowed. In the reign of James I. the honest and manful struggle made by the House of Commons in treating with the king for the abolition of feudal tenures, and the successful manner in which they ultimately carried their cause, exhibit the decided influence they had attained, even at that early period.

After the death of Charles I. the House of Commons, though they in their patriotic zeal went to too great extremes, saw that their honest fearlessness had placed them on a firm standing with the other constituents of State. Though they voted the entire abolition of monarchy, yet by no compromise of station or dignity, but, actuated by a just spirit of

liberality, they, on the restoration, agreed with the Lords that the government ought to be in "Kings, Lords, and Commons." Immediately afterwards they passed two very important bills in reference to the power of taxation, one concerning the appropriation of supplies, the other the appointment of a committee, with full power to inspect public accounts.

During the reign of Charles II., aggravated by the perfidy of the cabal administration, the House of Commons firmly established the important privilege of the right of impeachment.

The impeachment of Lord Mordunt was sent up on charges of so little public moment, they were suspected of having chiefly in view the assertion and sustainance of this important privilege. "It was never called in question from this time; and, indeed, they took care, during the remainder of this reign, that it should not be endangered by a paucity of precedents."\*

After the abdication of James, and the establishment of William, great and arduous duties were performed by the House of Commons. They exercised a beneficial influence, which is readily perceptible, from the motive exhibited in limiting the revenue; their jealousy of a standing army; their interference in the Irish forfeitures, for which, however, they have received the censure of eminent writers, whose justification may be found in the indignation often expressed against William, in granting away one million of acres belonging to those Irish who had fought on the side of James.

From this hurried notice of the progress of the power of the House of Commons, it is easy to see the vast influence they exerted in giving a tendency to the mind, an impetus to the sentiments, of the people, in the direct and onward track for freedom, whose representative they were proud to be, as they instilled in their hearts a warm and devoted attachment to justice and liberty. It was in the House of Commons the first seeds of free principles were planted, which, by gradual maturity, have made England a country of permanent and most enlightened institutions, compared with all the governments of the Old World.

That bold and undaunted devotion to liberty which fired

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\* Hallam's Constitutional History of England.

the hearts of Pym and Vane, and nerved, amidst the roar of battle, the unfaltering arm of Hampden and Cromwell, was transplanted to the wilds of the Western World, and nurtured into life and full maturity, by men who had felt the want of that impartial restraint which the moral, social, and political advancement of the times demanded; indeed, by these and kindred feelings, emigrants began to settle in America. Some few hardy adventurers had visited this country, and, returning to the bosom of their friends, carried with them rejoicing tidings of the healthfulness of the climate and vast capabilities of the soil in supplying the wants of man. England soon became seized with the idea of colonizing America: other nations embraced the opportunity of appropriating a portion of the same country for a like purpose. France, Spain, and Russia felt the necessity of Colonies, and respectively occupied different choice regions of the country.

It seemed a bright and sunny day for Europe; here her overgrown population could find an ample country, where nature smiled profusely upon man's slightest efforts. Crown-heads and cabinets daily indulged in the pleasing thought of enriching the country of their birth and home with the bounteous offerings of America.

In order to assert and maintain an indubitable right, as far as England could colonize, she executed and exhibited to the world her *title papers*, by issuing patents. In 1504 Queen Elizabeth, by patent, granted to Sir Walter Raleigh authority to discover, occupy, and govern, "Remote heathen and barbarous countries." The details of the expedition fitted up for the occasion belong to another department of history. The first permanent settlements in the Colonies were at Jamestown, in Virginia, in 1607, and Plymouth, in Massachusetts, in 1620. The settlers at Plymouth, originally from the North of England, belonged to that peculiar sect the *Puritans*. Owing to the cruel persecutions they encountered during the reign of James I., they fled, with their pastor, to Amsterdam, in 1608. They afterwards removed to Leyden, where they remained until they embarked for America.\*

These two settlements, with the exception of St. Augustine, —the first in North America,—were, in historical bearing, the most important. Differing in habits and feelings, free from every conflict of interest, they lived, for a time, without

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\* Barbour's Outlines, p. 38.



intercourse. The next most important settlement which was made was in 1635, which sprang from a party of early settlers in Massachusetts; a parcel of men, women, and children, starting from Dorchester, took up their march towards Connecticut River. In the following year a man named Hooker, who acted as their pastor, also emigrated with more than a hundred; they located at a place called by them, at that time, Newtown, which was afterwards changed to Hartford.

I will not detain the reader by reference to the other Colonies as they were successively planted. In a different department of history they have been extensively noticed; yet it is highly interesting, at this place, to observe some of the characteristics of the governments of the Colonies, as by degrees they expanded to a larger and more important sphere.

Planted at different times, under different circumstances, the colonial governments varied in many important particulars. The first form of government was by *Charter*; the powers of legislation being vested in a governor, council, and assembly, chosen by the people. Connecticut and Rhode Island were of this class. The second was a *Proprietary* government, the proprietor of the province being governor, with an assembly chosen by the people. This form of government prevailed in Pennsylvania, Maryland, New Jersey, and the Carolinas. The third kind was that of *Royal Government*, the governor and council being appointed by the crown, and the assembly elected by the people. New Hampshire, Massachusetts, New York, New Jersey, after the year 1702, Virginia and the Carolinas, after the resignation of the proprietors, in 1728, were governed by this form.\*

The citizens of the United States are one people; yet in each State a certain difference of character and habit are perceptible. At this day an identity of feeling and interest, which, from the beginning of the Revolution, made them sisters of the same household, and the constantly increased intercommunication, mingled with a common political and national destiny, have nearly reduced all difference, except a few local institutions, which adds beauty and variety without marring the harmony of the system. With the highest respect, the most brotherly feeling towards the New England States, it is hoped no umbrage can be taken at the avowal of the superiority of the settlers of the Southern Colonies, in

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\* Dr. Morse.

their more polished and varied education, over those of the North. I acknowledge, at the present day they may have excelled us in the acquirement of wealth; yet a Southern son—a Virginian or Carolinian—can never become oblivious to those warm impulses of honor, or callous to those high-toned chivalric virtues which, characterizing the earlier settlers of the Southern Colonies, have, beneath “An ardent southern sun,” been dutifully perpetuated by a grateful posterity.

Among the Northern Colonies we discover a coldness of temper, a more regular and methodic capacity for the details of business, whilst their high sense of propriety, strict honesty, and virtuous bearing, compare them favorably with any people on the globe.

At the time of the settlement of the Colonies, the oppressive religious restrictions of the Old World drove many to this country, that they might worship in obedience to their respective forms and creeds. This marked the character of the pilgrim fathers. A sect more remarkable for the strictness of their religious opinions and habits never lived. Their entire passion seemed engrossed in religion. Every act conformed to some adopted and strict formula.

Connecticut, as has been observed, was settled by emigrants from Massachusetts; they carried with them the observance of many rules, exceeding, in their pious zeal, the limits of Christian forbearance. They are remembered to this day, by many of the most singular and oppressive laws, which were religiously obeyed. Happily, and to their credit, “the blue laws,” as they were called, were speedily repealed, and the Puritan, in overcoming his prejudices and laying aside his astute forms and opinions, lost none of his purity of character or fervid piety.\*

The most singular of these laws were, “No one shall cross a river without an authorized ferryman. No one shall run of a Sabbath day, or walk in his garden or elsewhere, except reverently to and from the church. No one shall travel, cook victuals, make beds, sweep houses, cut hair, or shave on the Sabbath. No woman shall kiss her child on the Sabbath or fasting day. A person accused of trespass in the

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\* As a document of rare historical notice, I refer the reader to the celebrated code, known as the “Blue Laws of Connecticut.” (Barbour’s Outlines, p. 44. *Analectic Mag.*, p. 57.)

night shall be judged guilty unless he clear himself by his oath. No one shall buy or sell cows without the permission of the selectmen. Who ever publishes a lie to the prejudice of his neighbor shall sit in the stocks or be whipped fifteen stripes. Whoever brings cards or dice into this dominion shall pay a fine of £5. When parents refuse their children suitable marriages the magistrates shall determine the point. A man that strikes his wife shall pay a fine of £10. A woman that strikes her husband shall be punished as the court directs. Every male shall have his hair cut round according to a cap." The use of tobacco was interdicted by law. The code from which the above is nearly a full extract was never written, but was published orally by the selectmen, which consisted of the judges and pastors of the congregation. A distinctive character likewise clung for a long time to the habits and feelings of the people of Pennsylvania, arising from the influence of that great and good man who, in laying the foundation of a large and influential State, planted with equal firmness the principles of piety which yet flourish in enduring memory of him as the benefactor of his race. Like the influence of Puritanism, the religion of Penn infused itself into the laws and constitution of Pennsylvania, and has marked with the utmost distinctness the track of the Society of Friends whithersoever they have gone. Impressing deeply its character on the early and untutored jurisprudence of the country, it was distinguished above that of the neighboring Colonies by clemency, forbearance, and justice; educated in such schools, the inhabitants of Pennsylvania retained a long impression of their original stamp, perceptible at this day among the peaceful, honest, industrious, rural population of that State.

Maine was visited by a small number of French in 1613. They made but a temporary sojourn; abandoning all idea of a settlement, they left that region of country forever. Previous to the French, a company of English, under the guidance of George Popham, in the year 1608, reached America near the mouth of the Kennebec; began their settlement, but meeting heavy disasters, they abandoned the country in a great measure. In the year 1652 this Colony was granted to the pilgrims by the vote of the General Court in Boston, before which the great charter of the Bay Company was unrolled and the priority of title under the grant to Massachusetts established in preference to the patents under which

Rigby and the heirs of Gorges claimed. The Colony finding itself in a weak and unprosperous condition, readily yielded to the decision of the court.\* It will be equally interesting, which I propose doing at another time, to trace the origin and progress of the western and other portions of the United States. During the Revolution they were indeed unsettled; though they had been visited, they cannot be considered as among the early Colonies of America. The most appropriate place for noticing their early history will be the time of their admission into the Union.

Georgia was the last settled of the Thirteen Colonies that revolted from the government of Great Britain. It derives its name from George II., and was established by his authority. The supporter and leader of a colony that sailed from Gravesend, in 1732, and landed at the present site of Savannah, was James Oglethorpe; his small band consisted of one hundred and thirteen persons. A treaty was soon made with the Indians, which resulted in the cession of a considerable tract of land. For the purpose of defending the Colony it was first granted as military fiefs, on condition that they would, when required, appear in arms. The Spaniards laid claim to Georgia, and Oglethorpe engaged at once in the defence; he constructed forts at Augusta and Frederica. Immediately after their completion, the Spaniards sent against him three thousand men. This invasion forced the governor to retreat, as, besides a few Indians, he had not more than seven hundred men. An ingenious stratagem rescued the party from entire destruction. A French soldier deserted and went to the Spanish camp. Oglethorpe knew the deserter would inform the enemy, and give information of the exact condition of the army; he consequently addressed a letter to this deserter, requesting him to acquaint the Spanish army of his defenceless position, and urge them to the attack. If this was done, he was to persuade them to remain three days at Fort Simons, as within that time he would have a force of two thousand land troops with six ships of war. The letter was given to a Spanish prisoner, under promise that it should be delivered to the deserter; but, as was expected, it was handed to the commander of the Spanish forces. A portion of the army expected by Oglethorpe made its appearance;

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\* Bancroft, vol. i. p. 430. Mass. State Papers, Case I., File VII., Nos. 4, 20, 58.



the Spanish army, anticipating some stratagem, abandoned the post and fled. Georgia for many years languished, especially in its earlier days, owing in a great degree to the peculiar tenure of the lands, the restriction of the importation of rum, which deprived the country of its trade with the West Indies, and threw upon their hands, without a market, an article with which the country abounded,—lumber,—from which they ultimately realized immense profits; and lastly, the prohibition of trading and introducing slaves into the Colony. I have summarily glanced at the condition of some of the principal settlements that formed themselves into separate Colonies, most of which had a separate grant, differing in some respects from the surrounding settlements, whilst a few emigrated, as has been mentioned, from older settlements. Their history has been traced until they reached the number which bore us through the Revolution, they maintaining their distinctiveness as Colonies, yet mingling their interest in a common cause.

It will not be amiss in this place, as the present chapter is designed as an introduction, to notice the causes that induced our forefathers to revolt from the dominion of Britain, which resulted in the establishment of liberty for themselves and posterity, and in linking together a confederacy the most distinguished among the governments of earth, with a Constitution plain and simple, yet sufficient for the government of man in the complexity of his wants and actions. It was designed for a people requiring the slightest possible government, the highest merit of which will be found that, in its administration, it recognizes virtue, intelligence, patriotism, as the chief and only enduring props of government.

Frequent collisions occurred, in relation to the Colonies, between England and France. It is clear, beyond dispute, that England had the advantage as far as depended on *discovery*; but, as regarded *occupation*, the claims of France were in some respects superior. Jamestown and Quebec were settled in fifteen months of each other. As late as 1753 France had possession of Canada, as well as an extensive territory on the Mississippi. Her effort was by a military chain, stretching along the Ohio and the Lakes, to bind these two distant settlements together. Constant disputes existed between the French and English. Complaints reaching the ear of Dinwiddie, then Governor of Virginia, he dispatched on the last day of October, 1753, a major of militia, as the bearer of a



remonstrance, to the French commandant stationed near the Ohio. George Washington, then just of age, offered his services; with only one companion and a gun, the youthful hero and future statesman proceeded on his journey. On the 12th of December he delivered the letter in person to the French commander. Washington hastened back with the reply, and delivered it to the governor about the 15th of January, 1754. Historians have traced the events that ensued. Hostilities were commenced by a surprise and capture of a French force, at a place known as the Great Meadows; at which place Washington acted as lieutenant-colonel.

The English Colonies, during a greater part of the time of the difficulties with the French, were true and loyal to the crown, resisting all aggression from abroad with patriotic fervor and zeal; they had not at this time thought of resistance to the Mother Country. Had not British cupidity and tyranny, by a series of burdensome enactments, driven the Colonies first to protestations and ultimately to arms, the Mother Country might have enjoyed for a long series of years a large and constant accession to her revenue from the American Colonies. During the earlier years of the Colonies the Mother Country exhibited no tenderness, yet there was an absence of that rigid policy practiced by the English government, which first occupied the minds and engrossed the attention of the ministry immediately after the attempt to abrogate the American charters, which was about the year 1720. About the same period, Sir William Keith, who had been the Governor of Pennsylvania, endeavored to extend the stamp-act of England over the Colonies. The measure at that time met no favor. Sir Robert Walpole, the firm friend of the Colonies, the fearless and upright advocate of justice, opposed the measure. "I will leave," said he, "the taking of the British Colonies for some of my successors, who may have more courage than I have and be less a friend to commerce than I am." The policy of Walpole was just and eminently judicious; he knew, from the monopoly of trade enjoyed by England, that the exchequer would be more constantly replenished than by levying onerous duties, the tendency of which was to crush the energies and cripple the resources of the Colonies without bearing the slightest approximation to an adequate return to England.

Previous to the year 1720 the commercial policy of England had been content with enjoying the monopoly of trade

with the Colonies, which was the wisest position she could occupy; after which period a new commercial system was introduced. The Colonies had rapidly increased in numbers and resources, when, by an overreaching cupidity, the British government, in the vain endeavor to extricate herself from the distressing accumulation of debt arising from wars, sought relief by resorting to heavy and unjust requisitions upon America. Thus England planted in the soil she fain would exhaust those principles which, in their growth and progress, nursed by the fostering care of her transatlantic children, served to cripple rather than advance the interest of the Mother Country. Her loyal subjects had ascertained their strength and skill by upholding with a firm and fearless hand the interest of England when assailed by the French Colonies; they knew their own prowess could be relied on; they determined not to submit. No occurrence could have produced more surprise; history presents no like instance of folly to the course pursued by the English ministry.

Tribute was levied on every branch of industry; as far as practicable every form of consumption was secured to British manufactures. The manufacture of hats, upon the

5 Geo. II.,  
c. 22.

remonstrance of the London company of hatters, was protected by statute, forbidding the transportation of hats from one plantation to another. The English iron masters, becoming jealous of American industry, the

1719.

House of Commons passed an act declaring, "that the erecting manufactories in the Colonies tended to lessen their dependence on Great Britain." "In the formation of the colonial system, each European nation valued most the Colonies of which the products interfered less with its own. Jealous of the industry of New England, England saw with exultation the increase of its tropical plantations. It was willing, therefore, to check the North, and favour the South. Hence, permission was given the planters of Carolina, and afterwards of Georgia, to ship their rice directly to any port in Europe south of Cape Finisterre." The Southern plantations were consequently considered of more importance than those of the North. After a long discussion,

6 Geo. II.,  
c. 13.

an act of parliament was passed, esteeming the prosperity of "the sugar plantations in America as of the greater consequence to the trade of England;" and likewise imposing a duty of ninepence on every gallon of rum, sixpence on every gallon of molasses, and five shillings

on every hundredweight of sugar imported from the Colonies into any of the British plantations;\* subjecting, by this unfair system, the trade of the Northern Colonies to that of the West Indies. The inimical and unjust policy of the English government was urged and insisted upon by some of the most prominent statesmen of England; whilst, to add accumulated injury to oppression, George Grenville, in the year 1765, brought forward a measure which, though previously discountenanced, was at this time easily adopted and avariciously seized upon—the odious stamp-act—by which every instrument of writing, all law documents, and contracts, were to be void unless written upon stamp-paper. Newspapers, pamphlets, and almanacs, were likewise required to be printed on stamp-paper.

Charles Townshend, when this discussion was under consideration, expressed himself warmly in its behalf. “Children,” said he, “planted by our care, nourished by our indulgence, till they are grown up to a degree of opulence and strength, and protected by our arms, will they grudge to contribute their mite to relieve us from the weight of that heavy burden under which we lie?” This elicited a warm and animated reply from Colonel Barre, true, eloquent, and just. “They planted by your care!” said he; “no, they were planted by your *oppression*; they fled from *tyranny* to an uncultivated, inhospitable country, where they exposed themselves to all the hardships to which human nature is liable. They nourished by your indulgence! they grew up by your neglect. As soon as you began to extend your care, that care was displayed in sending persons to gull them in one department and another, who perhaps were the deputies of deputies to some members of this House; sent to spy out their liberties, to misrepresent their actions, and to prey upon their substance. They protected by your arms! they have nobly taken up arms in your defence; have exerted a valor, amidst their constant and laborious industry, for the defence of a country whose frontier was drenched in blood, whilst its interior parts yielded all its little savings to your emolument.”

There existed with the ministry a fixed determination, which, originating in pecuniary distress, assumed, when opposed by the best and most enlightened patriots of the realm,

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\* Bancroft, vol. iii. p. 385.

a party aspect, mingled with acerbity at home, and tempered with a strong resentment towards the Colonies. In vain did the bold and fiery eloquence of the immortal Chatham, urging his own sublimated sense of justice, fall upon the House of Lords; unheeded the deep philosophy of Burke, who, calmly surveying the power of the growing Colonies, persuaded the British Senate to forbear. Side by side stood the statesman and philosopher; strength of eloquence and force of wisdom passed unfelt before a weak and rapacious majority, incited by the parasites of a weaker monarch and the fatlings of his favor.

Conspicuous among the friends of young America, whilst he looked upon her growing energies with tender consideration, exhibiting a patriotism towards the Mother Country founded on genuine principle and foresighted sagacity, stood the Marquis of Granby, who, from the fullest conviction of right, exclaimed,—“I disclaim every idea both of policy and right, internally, to tax America; I disclaim the whole system: it is commenced in iniquity, it is pursued with resentment, and it can terminate in nothing but blood.”

Long will be the grateful remembrance, in the bosom of honorable soldiers and distinguished patriots, as they reflect upon the noble bearing of Lord Effingham, who resigned his military commission rather than bear arms in a cause he deemed unholy. Freely expressing himself, he declares in his own emphatic way,—“It is no small sacrifice which a man makes who gives up his profession; but it is a much greater when a predilection, strengthened by habit, has given him so strong an attachment to his profession as I feel. I have, however, this consolation, that by making this sacrifice I at least give to my country an unequivocal proof of the sincerity of my principles.”

These examples, and this recurrence to the political history of the times, are mentioned in no spirit of complaint, but to show the high and righteous position of the Colonies, in the steps they took towards the Mother Country. Why should any citizen of the United States object? It placed them in the right, invoked the justice of Heaven in their cause, and was the prelude to the development of that principle of liberty which has not only made us a nation of freemen, but shed its halcyon light over the civilized world. The pages of history attest, and the patriot will never forget, how our forefathers marked their very footsteps with blood; and whilst many died



amidst the clash of arms, their memory is more endeared to posterity. Who would not share their glorious lot? Who would not die the death they chose?

The interest of North America was cherished by many who, not conspicuous in the annals of their country, yet with a firm heart and unshaken steadiness of purpose, left their home, to see no more their native hills, to swell the tide of emigration flowing towards the Colonies. England lost many of her most cherished sons and daughters. Ireland, unhappy land, rich though it be in song and genius, poured her chivalric boys and bonnie lasses into this land of promise. There came too from the land of steady habits, from old Scotia's shore, the plain and honest Scotch. These, the pioneers who settled and formed the Colonies into a strong and enduring union, had penetrated the deep forest, and, amidst the difficulties of nature, the prowling wild beasts, and more dreaded savage, planted the white man's habitation. Here, with their friends and families, they discoursed of liberty: the impetuous rivers had been ascended, the forest echoed to the advancing footsteps of civilization. Here hardy industry, that defied the suns of summer and the chilling blast of winter, determined the future destiny of this country; whilst England, experimenting on those feelings imbibed from her own Revolution, unmindful of the power they had acquired in the western wilds, was alike unconscious of the energy she was exerting.

Progress marked the characters of the Colonies. In 1738, forty-one topsail vessels—six thousand three hundred and twenty-four tons—were built in Boston. In its vicinity the increase of population frequently justified the division of townships. The maritime enterprise of Maine became, after the settlement of the French difficulties, flourishing. At the time of the treaty of Utrecht, the inhabitants of the Colonies numbered nearly four hundred thousand; before the termination of peace they were nearly eight hundred thousand. Before the Colonies had assumed a distinctive character, or developed their purpose, many difficulties bore heavily upon them, independent of the acts of direct aggression inflicted by the English ministry. The financial difficulties of the Colonies were oppressive to the heaviest degree, occasioned by their commercial dependence on the metropolis. It is impossible for a new country to keep free from debt: the

Colonies required credit, which was obtained by the stern enforcement of the mercantile system, yet with prospects panoplied by clouds, hope, and relief, still beamed in the distance; nature opened on every side her rich resources, requiring but the hand of industry to present to the young and aspiring sons of the New World abundant riches; spreading inducements from the ocean to the mountains for the investment of capital that would ultimately build up the grandeur and opulence of a vast republic. With such assurances, relying upon a return in multiplied ratio, the colonists were induced, before the commencement of the Revolution, to bear with a system they saw was regularly increasing their indebtedness to the Mother Country. Labor of every description was in demand; the highest wages were paid every kind of operative. The war of the Revolution came before the result of the active enterprise of the country had been realized. This abiding debt required a constant remittance to the Mother Country, which left us without a currency. The only remedy that offered itself was under the circumstances a dreadful one,—the manufacture of bills of credit, and the institution of loan offices, as they were called.

1733.

The first emission of paper money had its necessity from the embarrassment of the Government.

Bancroft.

They were redeemable at some distant day, and were thrown into circulation by loans to the citizens, at a reduced rate of interest, secured by mortgages on lands. These bills would have been worthless had they not been made a legal tender, which gave them an active circulation; this unreal enlargement of the currency was gratefully received, and appeared at first beneficial. It was, however, soon discovered that specie grew scarce every month, owing to the heavy drafts from the Mother Country. A rapid depreciation of this paper consequently ensued, which seemed to incite the desire for an enlarged issue. The farmers were in a critical condition. Their lands had been mortgaged. Specie could not be obtained except in very small quantities. Real estate fell in value, whilst the constant depreciation of the currency worked an accumulated *indebtedness* on the part of the people. After great embarrassment the evil gradually healed itself, but not without serving to enhance the bitterness of the colonists against the Mother Country, in reference to which disputes had already been rife. The queen had issued a proclamation which was nugatory, attempting

the regulation of the value of coin between the two countries, giving one value in England and another in America.

The Colonies, surrounded with difficulties, pressed down by pecuniary embarrassment, had scarcely become quiet by the yielding spirit of the Ministry, in reference to the stamp-act, when an impolitic scheme, concerted between the Ministry and East India Company, arrayed the parties again on contending ground. The act passed in 1773, in reference to the duty on tea, so excited the Colonies, especially the citizens in and near Boston, they determined the cargoes from the East Indies should not be landed. They were thrown overboard. Intelligence of the transaction reached the British Ministry. During the next year an act was passed restraining all intercourse by water with the town of Boston. The port was closed. The government and public officers removed to Salem.

A tax, though a small one, levied in defiance of human rights, had once kindled the flame of war, and urged the intrepid Hampden to violent resistance against the arm of his country, which rolled on in successful energy until a mighty revolution presented itself to the world, carrying on its bosom the seeds of reform, which bravery and determination, nurtured by a true spirit of patriotism and philanthropy, grafted not only on the pillars of the British throne, but implanted deeply in the heart of those who sought a distant home amid the wilds of the New World. The same feeling, caught in the fervency of its inspiration, fired the hearts of the Colonists. The unjust tax accruing from the tea-act was inconsiderable. A mighty principle was at stake. The time to assert it was before the exercise of tyranny by one party had subdued the love of freedom in the other, and whilst the wounds of accumulated wrong and injury were fresh and bleeding.

The war of the Revolution dates from this period. The Ministry despatched 10,000 men to be stationed at Boston. It would be foreign from the plan of this work to go into the details of history, familiar as they must be to the reader. The causes of the Revolution, the political events that preceded, have been hurriedly traced.

The incipient and ultimate character of the Revolution, whilst it struck the world with amazement, is looked to by Americans with the purest and most devoted feelings. Unallied to those created by an empty admiration for the pageantry of warfare, or that stupid man-worship which distin-



guishes the soldiery of the Old World, overcome as they are by blind devotion to material splendor or the successful leader, instead of an intelligent appreciation of the moral and political principles that flow from a well-founded revolution. The reader will perceive the entire change which ensued in the character of the Revolution during its progress. After the Colonies had determined on resistance, after hostilities had commenced, few felt disposed to undertake a war for independence. The pride of political birthright kept alive a loyal spirit. The question of independence, agitated to a certain but limited extent by the States, met with no recognition from the first and second Congress. As early as the year 1755, "the freeholders and other inhabitants of Massachusetts Bay, Rhode Island, and Providence Plantations, New York, New Jersey, Pennsylvania, the government of the counties of New Castle, Kent, and Sussex, upon the Delaware, and the Province of Maryland," presented a most loyal petition to the King, which was adopted by Congress in 1765, as the prevailing sentiments of the people. This paper represents the Colonists as lawful subjects, attached to the throne, and petitioning only as British subjects. In a memorial to *Parliament*, adopted the same year, the following language appears:—"That from the natural connection between Great Britain and America, the perpetual continuance of which your memorialists most ardently desire, they conceive that nothing can conduce more to the interest of both than the Colonists' free enjoyment of their rights and liberties, and an affectionate intercourse between Great Britain and them." The Declaration of Rights, adopted by Congress, October 19th, 1765, breathes the same loyal spirit.

It sets forth the grievances that oppressed the Colonists. Congress at that time said,—“That his Majesty's subjects in these Colonies owe the same allegiance to the Crown of Great Britain that is owing from his subjects born within the realm, and all due subordination to that august body, the Parliament of Great Britain.” These papers, whilst they contain the germ of freedom, show, more abundantly than the extracts I have been able to make, the friendly disposition of the Colonies towards the Mother Country, in the earlier stages of our difficulty. Pacification was their first feeling; a pure confidence in the justness of their cause ultimately inspired strength sufficient to enable them to strike for Independence.

In 1754 the New England States, Pennsylvania, Maryland, and New York, appointed delegates, who met in June of that year. On the 4th of July of that year they adopted a plan of government.\* Dr. Franklin, equal to the most eminent and distinguished statesmen of that day, remarkable for cool, dispassionate reason and sound judgment, was the chief actor on the occasion: his plan, though exceedingly bold, was adopted unanimously, except the vote from Connecticut. He proposed a *General Government*, a President, appointed by the Crown, with a Council elected by the Colonial Legislatures, with all the legitimate powers of government free from the control of the Crown. This plan was not only rejected by the Colonial Legislatures, but indignantly scouted from the British Cabinet. Eleven years afterwards (1765) the corresponding committee of New York proposed holding a Congress of Delegates from all the Colonies. On the 7th of June the Assembly of Massachusetts addressed a circular letter to the Speakers of the Provincial Assemblies. This letter was moderate in its tone and character: it urged a meeting "to consult together on the present circumstances of the Colonies, and the difficulties to which they are and must be reduced, by the operation of the acts of Parliament for levying duties and taxes on the Colonies; and to consider of a general and united, *dutiful, loyal, and humble* representation of their condition to his Majesty and to the Parliament, and to implore relief." This letter, from which the above is an extract, fixed New York, and the first Monday in October, as the place and time where and when this Congress should meet. It was received with great approbation. Delegates were appointed by the Legislatures of the different Colonies. Nine of the thirteen were represented: it being earlier than the Assemblies of New Hampshire, Virginia, North Carolina, and Georgia met, they did not send delegates. They respectively wrote they would agree to whatever was done by the Congress. New York was represented by the corresponding committee. Thus was instituted the first Colonial Congress. A most impressive 1765. spectacle: its moral and imposing grandeur must even at this day make a deep and solemn impression upon the mind; abiding injury and unatoned wrong had been heaped upon a young and unoffending nation.

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\* Lossing, p. 34.

Cool, calm, reflecting men had assembled, undismayed by the power of the throne, nerved, by a consciousness of outrage, to the most desperate determination. They felt they were not performing an experiment, but practicing a duty they owed themselves and their country. They were to hold free and fearless conversation with the most powerful nation of the earth, fraught with eminent peril, because they were to confront England with abuse, ill-treatment, and tyranny; and though death be the consequence, a sense of patriotic duty nerved them to their purpose. They were willing to remain British subjects with the rights of citizens, but their manly hearts revolted at the thought of being British slaves. Though remote from the stirring events of the Revolution, in this Congress were the seeds of that convulsion which, resulting in the freedom of the North American Colonies, may be considered equal to any event ever consummated by man. Here were the "Fountain Springs" of liberty to the Colonies, the *Ovum Reipublicæ* of Young America.

Timothy Ruggles, of Massachusetts, was chosen chairman; John Colton appointed clerk. Congress sat fourteen days: the papers from which I have made short extracts, and others to which I have alluded, were adopted at this Congress. A declaration of rights, penned by John Cruger, a delegate from New York, a petition to the king, written by Robert R. Livingston, likewise from New York, and a memorial to both Houses of Parliament, were also adopted. This Congress consisted of twenty-seven delegates; its acts were received with entire unanimity by the Colonies. I shall leave the reader to other histories for a knowledge of the events that ensued for the next nine years. In 1774 the annals of Virginia spoke the part our own beloved State determined to take in the approaching contest, should one ensue. The House of Burgesses of Virginia was in session when the Boston Port Bill arrived: it was received amidst vast excitement. When the first ebullition of feeling had subsided, the House of Burgesses resolved that the first of June (on which day the bill was to take effect) should be "A day of fasting, humiliation, and prayer, devoutly to implore the Divine interposition in averting the heavy calamity which threatens destruction to our civil rights, and the evils of civil war; and that the minds of his Majesty and his Parliament may be inspired from above with wisdom, moderation, and justice, to remove from the *loyal people* of America all cause of danger

from a continued pursuit of measures pregnant with their ruin.”\*

Lord Dunmore, the Governor of Virginia, on the next day, May the 25th, dissolved the House of Burgesses. The members repaired to the Raleigh Tavern, yet standing as a memento of the hallowed occasion, to remind the rising generation, as it gathers at Williamsburg and clusters around that venerable seat of learning, of the patriotism of their fathers, whose just indignation despised and spurned the petty tyranny of the colonial governor. In this old tavern, in a room known then, as now, as the Apollo, they prepared an address to the people; in which paper, among many just and true measures, was a proposition for a General Congress of deputies from the different Colonies. Six days after the recommendation of the members of the dissolved House of Burgesses, of Virginia, a similar recommendation was made by Massachusetts. Arm in arm and shoulder to shoulder stood, from the earliest day of trouble, Virginia and Massachusetts: far distant from each other, with imperfect and tardy means of communication, a common feeling and kindred spirit was often developed by the similarity of their acts, whilst the one was ignorant of what the other was doing. They were members of the same family, educated in the same school, nursed and rocked upon the same billowy waves of adversity, and, though a rugged distance rolled between them, one sentiment and one heart was ever felt and in constant action. Long may a remembrance of early friendship serve to keep alive a constant and brotherly feeling.

On the 26th of August, at Williamsburg, Virginia held an assembly, and appointed delegates to a General Congress. The other Colonies followed her proud example. Before the end of the month, a full representation from twelve of the Colonies had been selected. They were chosen by the respective Colonial Legislatures. No Province sent less than two or more than seven. The New York Assembly refused to elect delegates. The *people* of New York were as devoted to the interest of the Colonies as any of that day. Their delegates were consequently elected by town meetings.

On the 5th of September, the General Congress 1774.

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\* This extract from the proceedings of the House of Burgesses, like extracts from other papers I have used, shows the original character of the Revolution was not a war for *Independence*.



assembled at Philadelphia. They met at Carpenter's Hall; were organized by the appointment of Peyton Randolph, of Virginia, President; and Charles Thomson, Secretary. Congress consisted of fifty-five delegates, representing twelve of the thirteen Colonies. Georgia was unrepresented. This Congress had been convened to take into consideration the hardships inflicted on the Colonies by Great Britain. A high and responsible duty rested on those brave, wise, and patriotic men. It was the most trying and difficult task ever then imposed upon them. No period had existed in which their lives and the fate of the Colonies were more deeply involved. By reference to the addresses and petitions adopted by this Congress, from which I have already made a few extracts, it is a clear conviction on my mind, that no fixed idea of throwing off the yoke of English Government had, at that time, occupied the minds of the people or Congress.

In the language of an eminent and accurate American scholar and biographer,—“It is not easy to determine at what precise date the idea of Independence was first entertained by the principal persons in America. English writers, arguing from the conduct of the Colonists, have commonly charged them with secretly harboring such designs at a very early period. This is not probable. The spirit and form of their institutions, it is true, led them to act frequently as an independent people, and set up high claims in regard to their rights and privileges; but there is no sufficient evidence to prove that any Province, or any number of prominent individuals, entertained serious thoughts of separating entirely from the Mother Country, till very near the actual commencement of the Revolutionary War.”\*

Yet it is to be remembered there were some bold spirits who, from the first, seemed to think that reconciliation was impossible. Among them stood most conspicuously the eloquent and illustrious Henry, as distinguished for virtue, boldness, and patriotism, as for matchless oratory; who, as far back as 1773, speaking of Great Britain, said,—“She *will* drive us to extremities; no accommodation *will* take place; hostilities will soon commence, and a desperate and bloody touch it will be.”† The people of the Colonies not only looked with restless anxiety to the action of this Congress,

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\* Sparks's Life of Washington, vol. i. p. 122. Boston, Tappan & Dennet.

† This, Mr. Wirt says, was uttered in the presence of Col. S. Overton.

but the pen was employed with zeal and activity in behalf of the oppressed citizens of America. In the hands of those *fifty-five* firm and cool-headed statesmen rested the destinies of the thirteen Colonies. Firmness was essential; caution equally so. Whilst all eyes were directed to them as the pivot on which their weal or woe must turn, they wisely adopted a policy which, leaving open the door for conciliation which they desired, it could yet be seen by the Mother Country that a spirit of determination,

“Mild as the breeze but dreadful as the storm,”

was latent in the unpretending modesty of this assembly of American statesmen. There never met on any purpose of deliberation any number of men who excelled in intellect, sound judgment, and disinterested purity, those who formed this Congress. Pitt, the great and distinguished light of English statesmanship and diplomacy, after an attentive reading of the various papers that emanated from this body, said,—“That for solidity of reasoning, and wisdom of conclusion, under such a complication of circumstances, no nation or body of men can stand in preference to the General Congress at Philadelphia.”

These sagacious men, looking abroad, saw that strength and support might be reckoned on and gathered from Europe. In England there were many who mingled their deep sympathy with the distant and oppressed citizens of America. No event would have brought greater joy to some of the continental governments of Europe, than an open rupture between England and her Colonies. France and Spain were the sworn enemies of England, and would have grasped with eagerness any opportunity, consistent with the principles of national law or the force of recognized treaties, to have facilitated such tendencies.

Wisely was it determined by this Congress not to run blindly or madly into a contest, the result of which was dreaded by the stoutest hearts and most sanguine tempers. They resolved on the second day of the session to proceed with closed doors. They then took into consideration the condition of the Colonies, carefully examining all the measures of the English Government. They yet held out the olive branch of peace. Every act and deed which had brought dismay, sorrow, and trouble upon unoffending Ame-



rica, were rigidly reviewed, and the cause of complaint presented in a true and faithful garb, through petitions and addresses to the Mother Country.\*

These papers, after enumerating the grievances that oppressed the people of the Colonies, asserted their rights: life, liberty, and the right to enjoy their property; the right of maintaining at home the trial by jury, and of taxing themselves; all of which they claimed as *English citizens*, as rights, time-honored in the Mother Country, and belonging to the Colonists as loyal subjects. Letters were addressed to the Colonies of Georgia, St. Johns, Nova Scotia, and the Floridas, inviting their co-operation in another Congress, which was determined should be held on the 10th of May following.

1774. After sitting from the 5th of September to the 26th of October, Congress adjourned. The people greeted their acts with applause. The papers sent to the King and Parliament received a cold reception, which served to kindle a livelier spirit of resentment. That good old man of those dark and trying days, Samuel Adams, had uttered, as with the rapture of inspiration, words that were wafted over the country in the spirit they were spoken, and firmly planted in the hearts of the Colonists. "I should advise," he said, "persisting in our struggle for liberty, though it was revealed from Heaven that nine hundred and ninety-nine were to perish, and only one in a thousand were to survive and retain his liberty. One such freeman must possess more virtue and enjoy more happiness than a thousand slaves; and let him propagate his like, and transmit to them what he hath so nobly preserved."

The transactions of Congress, as they became known to the country, were received with almost unanimous approbation. New York alone interrupted the general unanimity of feeling that existed at this time towards the English Government. The non-consumption and non-importation laws were more especially unpopular with many of the citizens of the city of New York. Here there were many wealthy men, largely engaged in commerce. Their relative position with the Mother Country had made them subservient in their loyalty.†

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\* These documents are found in the Journal of the first Continental Congress. They also passed a non-consumption, non-importation, and non-exportation law, which received the signatures of every member.

† The following note is taken from a recent work of merit and erudition, by J. B. Lossing, to whom I acknowledge my indebtedness for many suggestions contained in this chapter. It was at this time that the appellation

The general feeling of America could not now be tamed; they were aroused from one end of the land to the other. The succeeding year, 1775, was one of great and abiding interest. A voice had reached the British Parliament which could not be mistaken. It met on the 19th of January: the former friends of America, with Pitt and Burke at their head, were present. There, too, was the relentless North, with his series of measures, to coerce the Colonies. On the 10th of February, he asked leave to bring into the House of Commons a bill providing for the destruction of the trade of *New England* and their Fisheries. This bill, after exciting a stormy debate, was passed by a vote of one hundred and eighty-eight to fifty-five.

Burke, this year, throwing his vast and mighty talent not only in the scale of humanity, but of justice, presented his plan for *Conciliation*. It was, like the effort of others, madly rejected. 8th of March.

Quem deus vult perdere prius dementat.

The faithful page of history has traced the events of this year. Be it ever remembered, but no longer with sorrow, to America. The grand drama was opened on the 19th of April. The battle of Lexington commenced the war of the Revolution. The brave and timid, the rash and cautious, the confident and the doubtful, met with one accord and with one mind. The events of that day were attended with the greatest importance: the result was gratifying to the Colonists, and nerved every arm with new and untiring vigor. No longer need the voice of humanity be raised for conciliation; all

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of *Tory* was applied to the royalist, and the term *Whig* assumed by the patriots. The origin of the term is variously given. Bishop Burnet, in his history of his own times, gives the following explanation:—"The south-west counties of Scotland have seldom corn enough to serve them round the year, and the northern parts producing more than they need, those in the west come in summer to buy at Leith the stores that come from the north; and from a word *Whiggam*, used in driving their horses, all that drove were called *Whiggamores*, and shorter, *Whiggs*. Now in that year, after the news came down of Duke Hamilton's defeat, the ministers animated their people to rise and march to Edinburgh, and then come up marching at the head of their parishes, with unheard-of fury, praying and preaching all the way as they came. The Marquis of Argyle came and headed them, they being about six thousand. This was called the *Whiggamores* inroad, and ever after that *all that opposed the court* came in contempt to be called Whigs; and from Scotland the word was brought into England, where it is now one of our unhappy terms of distinction."

now was stern defiance. This day was the harbinger of freedom to the Colonies, whilst the loud drum-beat and the distant cannon-roar proclaimed a day of dark and dismal woe to England. The light of freedom fell upon America: if the stream was at first dull, it was because the sun of a bright and glorious day of lasting liberty was but emerging from the clouds that overhung the murky horizon of the Revolution.

In the spring of 1775, the second *Continental Congress* met at Philadelphia. Delegates from the Colonies appeared and took their seats. In the previous Congress, as in all prior stirring events, Georgia had remained aloof; now, however, she had shaken off her lethargy, and, catching the spirit of liberty from the excitement and exigency of the occasion, determined to live or die beside her sister Colonies in their noble and arduous struggle. On the 20th of July, Congress received dispatches announcing that the Province of Georgia had appointed delegates.

Randolph had been again elected President of Congress, and Charles Thomson, Secretary. On the 19th of May Randolph resigned his seat in Congress, and returned home. John Hancock was unanimously elected to fill his place.

The attention of Congress was first engaged with reports from the Colonies, detailing the various operations that had taken place bearing upon the questions of war or peace with the Mother Country. The earliest action of this body was to place every Colony in a state of military defence. Before any definite action had taken place, Congress made another appeal to the King and Ministry. This address, prompted by a spirit of loyalty to the Mother Country, recites briefly the manner in which hostilities had been conducted, breathes a liberal spirit, and hopes that steps may yet be taken which will lead to reconciliation.

At an earlier day Congress had expressed, in an address to the people of Canada, strong and decided feelings. "We are determined," says that high-toned paper, "for our parts, *to live free or not at all*; and are resolved that posterity shall never reproach us for having brought slaves into the world." By the 15th of June, all doubts had subsided as to the future course of the Colonies. On that day Congress adopted a resolution appointing a general to command the Continental forces, "raised for the defence of American liberty; and allowing the general five hundred dollars per month." The appointment of a general

was a subject of the highest importance. Congress well knew the heavy responsibility that must rest upon whoever should be selected to train raw militia to fight against the veteran troops of Great Britain, as well as the vital interest to be entrusted to him whose destiny it was to command an army which, when the conflict came, the effort for freedom or death was the game. At that time Gen. Ward was the most prominent military man: he then held command of all the forces of the East. But the germ of greatness, and the capability to command, with every virtue that makes man great, had been seen in another devoted patriot: he stood in their midst, not suspecting the high station to which he was about to be elevated. John Adams proposed the adoption of the Provincial troops, at Boston, as a "Continental Army." Before concluding his remarks, he said it was his intention to propose, as commander-in-chief, "a member of Congress from Virginia." Every eye was turned to him who, raised a plain surveyor, had exhibited judgment and bravery when, in early manhood, he had been in command upon the frontier of his country, and whose talent had been conspicuous in the Congress of 1774.

When the day came on which the selection was to be made, Thomas Johnson, a delegate from Maryland, rose, trembling with deep and fervid emotion, and proposed the name of *George Washington*: none other followed. Washington was unanimously elected. The next morning, after Congress assembled, John Hancock, the President, communicated to him, officially, his appointment. Washington made a brief reply, modestly distrusting his own ability, accepting the trust, and declaring he did not intend to profit by it, (his pay was five hundred dollars a month;) all he would receive would be his expenses, of which he intended to keep an exact account. He received his commission the 19th of July, signed by the President of Congress; to continue in force until revoked by the present or some future Congress. About the same time four major-generals and eight brigadier-generals were appointed.\*

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\* Ward, C. Lee, Schuyler, and Putnam, were created major-generals; Pomroy, Richard Montgomery, Wooster, Heath, Spencer, Thomas Sullivan, and Green, brigadier-generals. To them was added Gates, adjutant-general. Washington appointed Thomas Mifflin his aid-de-camp. (Lossing, p. 167, note.)



The year 1776 was replete with more stirring incidents than any previous one. It was not until that time a general spirit of independence had occupied the minds of the people. There had been but little manifestation up to this period to take that bold and daring step, with an open and determined expression of feeling, in favor of sundering the ties that bound the Colonies to the Mother Country. The honor of taking the first step, and this most important one, has been claimed by different Colonies. Some fearless and ardent patriots had, previous to this year, expressed their sentiments in favor of independence. Samuel Adams, R. H. Lee, Patrick Henry, Timothy Dwight, and others, stand conspicuously forth as the earliest personal advocates for independence. "In the month of July, 1775," says Dwight, "I urged, in conversation with several gentlemen of great respectability, firm Whigs, and my intimate friends, the importance and even the necessity of a *declaration of independence*." It is apparent, from reference to the political history of those times, that the first and most decided friend of independence was Patrick Henry, whose conversation with Mr. Overton has already been noticed as taking place in 1763. The earliest expression of public opinion by any body of people was on the 19th of May, 1775, at Charlotte Court-House, in the county of Mecklenburg, in the Colony of North Carolina. In April, Governor Martin had tried to prevent the assembling of a Provincial Congress at Newbern: it did assemble, however, approved the action of the last Congress, and appointed from the body of the people committees of safety. It was on the 19th of May, between twenty and thirty gentlemen, as members of the different committees, assembled at Charlotte Court-House, at which time Col. Thomas Polk read from the door of the Court-House a series of resolutions, which, receiving the sanction of the people of the county of Mecklenburg, have been treasured by faithful history, and presented to the world as the *Mecklenburg Declaration of Independence*. These resolutions were drawn up by Dr. Brevard, chairman of a committee appointed for the purpose, and are copied at length in a recent work of merit.\* This paper was for a long time considered of doubtful origin; now, however, the truth of history is vindicated, and an authentic manuscript copy is

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\* *Vide* Foot's Sketches of North Carolina.

yet preserved in the hands of Governor Graham, of North Carolina.\*

These resolutions, five in number, are bold and explicit. The third resolution is in the following words:—"That we do hereby declare ourselves a free and independent people, are, and of right ought to be, a sovereign and self-governing association, under the control of no power, other than that of our God, and the general government of the Congress; to the maintenance of which independence we solemnly pledge to each other our mutual co-operation, our lives, our fortune, and our most sacred honor."

In March of this year, the Provincial Congress of Virginia recommended a levy of volunteer troops in every county, for the better protection of the country. Henry was the mover of this resolution, which he advocated with more than his wonted eloquence; working himself up to the highest state of feeling with that fervent heat which enkindled the patriot's heart, his last powerful declamation, falling like a blaze of heavenly light upon his audience, he concluded by exclaiming,—“I know not what course others may take, but as for me, *give me liberty or give me death.*” North Carolina, when the Colonial assemblies began to agitate the subject, was the first to take bold and decisive ground for independence. On the 22d of April, her convention authorized their delegates in the General Congress “to concur with <sup>1776.</sup> those in the other Colonies, in declaring independence.” The General Assembly of Massachusetts spoke through her delegates to Congress, on the 10th of May, and “advised, that in case Congress should think it necessary for the safety of the United Colonies, to declare themselves independent of Great Britain, the inhabitants of that Colony, with their lives and the remnant of their fortunes, would most cheerfully support them in the measure.” Virginia, though later than North Carolina or Massachusetts, uttered her voice with a clearer and bolder strain: speaking, as was her right, in a manner to be obeyed, she unanimously *instructed her repre-*

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\* I find the following note in Lossing's work, styled 1776, page 156:—"Doubts having been expressed concerning the truth of the alleged Mecklenburg Convention and its proceedings, the author of this work wrote to Gov. Graham, making inquiry touching his possession and the authenticity of the copy of these proceedings, alleged to be in his custody; he politely answered in the affirmative, and they will appear among the State papers which the legislature of that State has authorized him to collect."



*sentatives* on the 17th of May, that her delegates, she said, "be instructed to propose to that respectable body, to declare the United Colonies *free and independent States*, absolved from all allegiance or dependence upon the Crown or Parliament of Great Britain." This was the most *decisive* step that had been taken, though not, as has been said by some *essayists*, the *first*. These resolutions are important in reference to another topic to be discussed hereafter,—the position of the Colonies in reference to the Government of the United States; for they still go on to say,—“And to support whatever measures may be thought proper and necessary by Congress for forming foreign alliances, and a confederation of the Colonies, at such time and in such manner as to them may seem best; *provided*, that the power of forming governments for, and the regulation of the internal concerns of each Colony, be left to the respective Colonial legislatures.”

Virginia was the first State that formed a regular independent government, which she did very soon after this resolution was adopted; after which Congress recommended to the different States the policy of adopting regular forms of independent government. The Assembly of Rhode Island, in  
1776. May of this year, directed the oath of allegiance to be taken to the Colony instead of the King. Their

delegates to the General Congress were instructed to unite with the other Colonies upon the proper measures for promoting the “strictest union and confederation between the Colonies, for exerting their whole strength and force to annoy the common enemy, and to secure the said Colonies their rights and liberties.”\*

The action of the different States followed in rapid succession. The month of May had not passed before one common feeling had pervaded every Colony. Nearly every one spoke boldly their sentiments, and avowed a determination that made it manifest they would take a high and lofty stand for independence. It cannot be denied, whilst the different Colonies (Maryland excepted) were determined on an expression of their feelings in reference to independence, that some were much more explicit and forcible than others. New York, for example: on the 8th of June, the delegates from that Colony wrote to the Colonial Convention, *asking advice* on the question of independence. The Convention not feeling

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\* Records of the Assembly of Rhode Island.

authorized to express any opinion, recommended, by resolution, that the people, who were shortly to elect new representatives, should instruct their delegates on the subject.\* On the 14th of June, a special convention was assembled in Connecticut, by which the delegates in the General Congress were instructed to "give their assent to a declaration of independence, and to unite in measures for forming foreign alliances and promoting a plan of union among the Colonies." It is curious to observe the proximity of time at which the Colonies, distant from each other, with scarcely any communication, expressed their feelings upon this grand question. On the 15th of June, the representatives of New Hampshire instructed their delegates to *join the other Colonies on this question*. On the 21st of this month, the convention of New Jersey instructed their delegates to join in declaring the United Colonies independent, "if they judged it necessary and expedient for supporting the just rights of America." The period for a final and decisive vote before the General Congress was rapidly approaching. Nearly all the Colonies had spoken. Some time in June of this year, Pennsylvania removed the restrictions which had been placed upon her delegation in November, 1775. No instructions, however, were given one way or the other. I lament to find one link broken in this beautiful concatenation of events. Maryland, by a resolution passed late in the month of May, positively forbade her delegates voting for independence. Whilst this general feeling was increasing among the respective Colonies, Congress was actively engaged in preparation for the *Declaration of Independence*. It was recommended to the Colonies, where an insufficient form of government existed, "to adopt such government as should, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general." Congress, at the same time, took a bold and vigorous stride towards a declaration of independence. They declared unequivocally that all royal power should be suppressed. The most momentous question that had ever engaged the attention, or excited the interest and hopes of an oppressed and struggling people, had now fully developed itself. Hope, dancing in the distant future, allured the Congress and the

1776.

May 10.

Idem.

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\* Records of the Convention of New York.

people. The dark and lowering cloud of English wrath held the thunder-bolt in fierce defiance. All eyes turned in anxiety to the General Congress. The representatives knew and felt they were looked to, and upon them must rest the responsibility of throwing the country into a position ruinous, if untenable; whilst it was known those most conspicuous and active would be the first to receive the special indignation and revenge of the Mother Country, and, if unsuccessful, no labor would be spared to bring their bodies to the scaffold. To feel and not to fear responsibility is the province and duty of a wise and brave man. Such formed the Congress of 1776. Conscious of the right and justice of their cause, after sufficient mature thought, they determined to act. In that dreadful hour, which fortune has made the brightest in our history, there arose from his seat a delegate from Virginia, Richard Henry Lee, by instructions from his constituents; Virginia would take the responsibility; that brave and virtuous patriot would have offered, if need be, his body to the scaffold. On the 7th of June, he moved (among others) the following resolution:—"That these United Colonies are, and of right ought to be, free and independent States; and that all political connection between them and the States of Great Britain is, and ought to be, totally dissolved." So great was the apprehension of danger in behalf of Mr. Lee, marked by the tenderest regard, that Congress directed the secretary, when making up the journal, to omit the names of the mover and he who seconded them: they were seconded by John Adams.\*

The Journal of Congress consequently does not show by whom these resolutions were moved and seconded. All discussion was deferred until the next day, at which

June 8.

time they were discussed in committee of the whole. No final action was even then had. They were adjourned to Monday the 10th, when they were brought up, and after much discussion and many bright displays of eloquence and courage,—the name of Richard Henry Lee conspicuous among the first,—it was resolved that the consideration of the first resolution (which I have quoted) be postponed until the first Monday in July next; in the mean while, that no time be lost, should Congress agree to the resolution, a committee be appointed to prepare a declaration in obedience to it. In accordance with the resolution, the committee was appointed;

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\* Life of Richard Henry Lee, vol. i. p. 170.

consisting of Thomas Jefferson, of Virginia, Benjamin Franklin, of Pennsylvania, John Adams, of Massachusetts, Roger Sherman, of Connecticut, and Robert R. Livingston, of New York. The committee consisted of five of the most enlightened patriots of the country. Lee, doubtlessly, from his prominent position and commanding talent, would have been on the committee,—parliamentary courtesy would have made him the chairman,—had he not by the sickness of his wife been compelled to leave on the 10th of June. Jefferson was appointed chairman of the committee; to whom was assigned the honor of drafting that State paper, which in character, force, and importance, finds no superior on the records of ancient or modern history. It was, with a few verbal exceptions, unanimously adopted by the committee, and reported to Congress on the *first day of July*, not, as has been erroneously stated, on the 28th of June.

Congress debated on this paper from the day on which it was received until the *fourth of July*.

Some distrust rested on the minds of its firmest and most ardent supporters, whether it would meet with unanimous approbation. Maryland and Pennsylvania had refused to give their sanction, when the subject was agitated in the spring of 1776. Maryland had yielded to the spirit of independence, through the influence of Carroll, Paca, and others; and, in convention, the former instructions to her delegation were cancelled. The day on which it was reported, it was referred to a committee of the whole. It was ascertained that Pennsylvania and Delaware had refused their assent.\* The vote of Pennsylvania, however, was secured. Morris and Dickinson were absent when it came up for final decision; the former was in favor of adoption, the latter against it. Of the five delegates present, three voted for the adoption—Franklin, Wilson, and Morton. In order to obtain on the final action of the question every Colony, McKean dispatched a messenger after Rodney, who was away. He arrived <sup>1776.</sup> in time to cast his vote on the 4th of July. Thus was presented to the world, the voice of Thirteen United Colonies, leagued together to assert and maintain their freedom at all hazards.

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\* Four of the seven delegates from Pennsylvania voted against it. The two delegates from Delaware were divided. Only two were present. Thomas McKean, in favor of it, and George Reed, opposed. Lossing, 262.



The world will never cease to admire the character of the Congress of 1776; whilst the United States will forever look back with dutiful sympathy and admiration to the troubles and dangers that beset the lives of those fifty-six who periled all for their country. The historic page shows no event that can compare with this, the opening drama to liberty, and constitutional rights of the people of the United States. There is no like record of human virtue to be found, as the lives of those great and good men. Not one of the number was deficient in the loftiest virtue,—moral purpose,—decision of character, which must be deeply written on the heart, to make men fit for the high and responsible duty they had to discharge. Nearly every one lived to see the most cherished object of their hearts accomplished. *Every one* passed through life without spot or blemish on their character, and *each* left a name for purity and uprightness, that in life could not be shaken by the severest trials. And now whilst the grave covers the earthly remains of every member of that hallowed band, the breath of suspicion dare not raise one word of censure or blame. In life they were loved, in death they are revered.\*

The Declaration was signed on the day of its adoption, by John Hancock; with his name alone it went forth to the world. On the 2d of August following, it was signed by fifty-four, the two others who signed afterwards being absent at that time.† In reference to the political character of the Declaration of Independence, and the paper in other respects, I shall make a few remarks.

It is a paper exhibiting a most intimate acquaintance with all the numerous acts of the King and British Parliament, in reference to the Colonies. Though prepared in a limited time, it was done with great labor and research. From that clause which states that the King “has refused his assent to laws the most wholesome and necessary for the public good,” down to the last clause enumerating the course of the King

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\* If there be exception to the above, it can only be in reference to Judge Chase, who was tried before the Senate and acquitted; and Thomas Jefferson, who, to some extent, has been censured, which will be noticed at proper times.

† A deep silence and awful solemnity hung upon every countenance, which was at length interrupted by Dr. Franklin, who, it is said, made use of the following remark:—“Gentlemen, we must all *hang* together, or we will most assuredly *hang* separately.”

and Parliament, commencing, "he has excited domestic insurrection among us," &c., an actual reference to parliamentary history will show that every clause between and embracing those recited, is based upon some special parliamentary vote, or action of the King himself. The history of George III. confirms the truth of every grievance enumerated, and to the energy of *Mr. Lossing* we are indebted for an historical reference to every complaint set forth in the Declaration of Independence. With the political and moral tone the world has been highly pleased. With manly firmness and irrevocable decision of purpose, there is a mingled vein of morality and Christian feeling, that has endeared it to the enlightened of every clime. If there be any objection to the sentiments contained in this paper,—and I freely acknowledge my objection to one, and that is in reference to its *political tendency*,—it is that which asserts the *equality of man*. If the author meant to limit his meaning to a religious sense, there is no objection to its truth and force. But this could not be; it would be inappropriate. If he meant to confine himself to those rights he enumerated, none will dissent. This was not his meaning; for those rights, "life, liberty, and the pursuit of happiness," are enumerated to show that they are *among* those rights that assist in making up man's equality. These, it is true, are called "unalienable:" so they are; but it is in the same sentence, and follows immediately after the words, "that all men are created equal, and that they are endowed by their Creator with unalienable rights." It is clear this wording has a political meaning. Such has been certainly to a great extent adopted, the tendency of which has been to degrade the character of our institutions, by throwing its withering influence upon the elective franchise; whilst under it sanction has sprung that iniquitous doctrine of agrarianism, which now has many advocates in the United States. All good men may be upon the same standing in the court of Heaven. Politically, all men are not equal; in the theory of government they cannot nor should be. Virtue and talent cannot be drawn down to the level of vice and ignorance; one is admired and sought after, the other should be punished and avoided. The great object of government is to secure happiness, which is only attainable and maintainable by a virtuous administration. In securing happiness, the main element of government must be to secure the rights of person and property, which must



be done by a virtuous administration of the laws; the protection of person follows, and is inseparable from that of property, and the basis of government is the security of the latter. The wise and virtuous, as a class, will acquire more property, and possess a larger interest under the laws; to this class then should belong their control. The laws then are for the protection of property and personal rights; the property-holding class adjust the laws for the protection of each. He who has no property finds the door open,—a generous patronage held out to his advancement, and an active stimulant to elevate his condition. That class destitute of property are protected in all they possess, person and character; upon the assailment of either, the law gives adequate protection. Their position in society is relative, different in interest, feeling, and pursuit. The law cannot make them equal. The effort should not be made to adjust the laws in accordance with the dogma that all men are created equal; should nature indulge in such a freak, the recurrence of its regular law would forbid its continuance. Government is artificial in its structure. If man in a state of nature requires little or no government, as he emerges from this state he finds his position an artificial one; to this must the machinery of government be adjusted. There is nothing in this adverse to the principles of a republic; nothing adverse to the interest of the poor. The laws that yield protection to the property holder, invite all within the scope of its protection. When those once destitute amass anything, they are at once upon a proper legitimate standing in reference to participancy in the affairs of the government. Reverse this adjustment, put all upon the footing that man, by nature, is said to occupy,—a state of equality,—you not only render him unfit for the government and society of a civilized state, but the insupportable hardship of taking from the talented, the virtuous, the enterprising, what they may have acquired, or what is but little better, you deprive that class of the right and privilege of governing their own property; or you place the mere natural right, abstractly belonging to man, when he advances beyond that condition of nature in equal balance with those rights belonging to the class of property holders, and against the rights they have acquired,—those rights that result from an acquisition of property. Philosophically speaking, that principle of the Declaration is wrong. Practically, it is the most offensive feature

that can pervade any system of laws. Let this error then be discarded; because while it lurks in the Declaration is a flimsy excuse for adhering to it, when reason and right proclaim it wrong.

I venerate the Declaration of Independence for its bold and manly assertion of the political rights of the Colonies. It was the frontispiece of our liberty. It was signed and sanctioned by the wise and good men of the Congress of 1776. Long may it be cherished with feelings of devotion by the people of the United States: yet it is fallible. Its object was not to form the basis of a government, but a *declaration of our rights*, in opposition to the aggression of Great Britain; as such it was originally designed, as such adopted and presented to the world, as such let it stand, and it will receive the admiration of all coming ages.

The minds of the people, now fully prepared for absolute severance from the Crown, received the Declaration with unbounded joy and applause. Washington at that time was stationed upon York Island. On the 9th of July he received a copy, which was read out to the army. The ardent outburst of feeling manifested on this, as well as every other occasion, gave renewed vigor to the people who, with one voice and a common effort, bent every energy of body and mind to the final accomplishment of this their national Declaration. Our forefathers had declared themselves free, yet an arduous struggle awaited them, ere that freedom which then belonged only to those who would not, nor could be enslaved, should be realized by the nation, and acknowledged by the world. This was to be wrought out by the *jus gladii*, and this it accomplished.

The first object, and the first necessity of a people, is a form of government. After the adoption of the Declaration of Independence, the Colonies, or as they shall be hereafter styled, the United States,\* were in the utmost confusion. The veteran soldiery of England were hovering around our coast, with thousands of mercenaries; many from the well-drilled service of Frederick the Great, in search of booty, or fired by the love of gold. Opposed to this powerful army, well-trained and equipped, were the raw, untutored, unsupplied

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\* Congress, on the 9th of September, 1776, declared that the Continental commissions should be altered from running in the name of the "United Colonies," to the "United States."

troops of the yet unformed republic; and whilst upon the arms of the early fathers of the country nearly everything depended, it was visible to every eye that the army alone could not accomplish the great purpose of our struggle, but that a form of government was demanded. No system had up to this time been adopted. Each Colony had transacted separately and distinctly its own affairs without unison, with little common counsel; but, united in purpose, there must be efficient means of co-operation. The Congress that had recently effected so much had no legitimate origin from the people. Delegates had been appointed; some by the Colonial assemblies, some by conventions, others by primary assemblies, with but a limited chart to direct their course.\*

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\* A reference to the credentials of the members of the first and second Continental Congress is inserted at this place as evidence of the feelings of the people, illustrative of views taken in other parts of this chapter, as throwing general light upon the character and powers of the two Congresses, as well as the extent of the powers of the *confederation*. The credentials of members from different Colonies, as far as they bore any, were according to the following extracts. They are not copied in *extenso* :—

*New Hampshire*.—"To devise, consult, and adopt such measures as may have the most likely tendency to extricate the Colonies from the present difficulties; to secure and perpetuate their rights, liberties, and privileges, and to restore that peace, harmony, and mutual confidence, which once happily subsisted between the Parent Country and her Colonies."

*Massachusetts*.—"To consult on the present state of the Colonies, and the miseries to which they are, and must be reduced, by the operation of certain acts of Parliament respecting America; and to deliberate and determine upon wise and proper measures to be by them recommended to all the Colonies, for the recovery and establishment of their just rights and liberties, civil and religious, and the restoration of union and harmony between Great Britain and the Colonies, most ardently desired by all good men."

*Rhode Island*.—"To consult on proper measures to obtain a repeal of the several acts of the British Parliament for levying taxes on his Majesty's subjects in America without their consent; and upon proper measures to establish the rights and liberties of the Colonies upon a just and solid foundation, agreeably to instructions given by the General Assembly."

*Connecticut*.—"To consult and advise on proper measures for advancing the best good of the Colonies, and such conferences to report, from time to time, to the Colonial House of Representatives."

*New York*.—"Only a few of her *counties* were represented; some by deputies authorized to "represent," and some by deputies authorized to "attend Congress."

*New Jersey*.—"To represent the Colony in the General Congress."

*Pennsylvania*.—"To form and adopt a plan for the purpose of obtaining redress of American grievances, ascertaining American rights upon the most solid and constitutional principles, and for establishing that union and harmony between Great Britain and the Colonies which is indispensably necessary to the welfare and happiness of both."

*Delaware*.—"To consult and advise with the deputies from the other Colonies; to determine upon all such prudent and lawful measures as may

The Provincial Congresses that had thus far directed the helm, were wholly inadequate to conduct a people through a war for independence. Union was now essential. The States

be judged most expedient for the Colonies immediately and unitedly to adopt, in order to obtain relief for an oppressed people, and the redress of our general grievances."

*Maryland.*—"To attend a General Congress, to effect one general plan of conduct, operating on the commercial connection of the Colonies with the Mother Country, for the relief of Boston and the preservation of American liberty."

*Virginia.*—"To consider the most proper and effectual manner of so operating on the commercial connection of the Colonies with the Mother Country, as to procure redress for the much injured Province of Massachusetts Bay, to secure British America from the ravage and ruin of arbitrary taxes, and speedily to procure the return of that harmony and union, so beneficial to the whole empire, and so ardently desired by all British America."

*North Carolina.*—"To take such measures as they may deem prudent to effect the purpose of describing with certainty the rights of Americans, repairing the breach made in those rights, and for guarding them for the future from any such violations done under the sanction of public authority." For these purposes the delegates are "invested with such powers as may make any acts done by them obligatory, in honor, on every inhabitant thereof, who is not an alien to his country's good, and an apostate to the liberties of America."

*South Carolina.*—"To consider the acts lately passed, and bills depending in Parliament with regard to the port of Boston and Colony of Massachusetts Bay; which acts and bills, in the precedent and consequences affect the whole continent of America. Also the grievances under which America labors, by reason of the several acts of Parliament that impose taxes or duties for raising a revenue, and lay unnecessary restraints and burdens on trade; and of the statutes, parliamentary acts, and royal instructions, which make an invidious distinction between his Majesty's subjects in Great Britain and America, with full power and authority to concert, agree to, and prosecute such legal measures, as in the opinion of the said deputies, so to be assembled, shall be most likely to attain a repeal of the said acts, and a redress of those grievances."

The above extracts are taken from a work on Constitutional Law, by Henry St. George Tucker. See Journal of the first Congress. The powers granted to the delegates to the second Congress are very much like those above quoted, as appears by the following extracts:—

*New Hampshire.*—"To consent and agree to all measures which said Congress shall deem necessary to obtain redress of American grievances." Delegates appointed by convention.

*Massachusetts.*—"To concert, agree upon, direct, and order" (in concert with the delegates of the other Colonies) "such further measures as to them shall appear best calculated for the recovery and establishment of American rights and liberties, and for restoring harmony between Great Britain and the Colonies." Delegates appointed by the Provincial Congress.

*Connecticut.*—"To join, consult, and advise with the other Colonies in British America, on proper measures for advancing the best good of the Colonies." Delegates appointed by the Colonial House of Representatives.

*New York.*—"This Colony not fully represented. Delegates were only sent from the city and county of New York, city and county of Albany, and six



had mingled their vital interest in a common effort. A central power was demanded, with a Congress as a controlling head, and written articles defining its powers. In 1775, Dr. Franklin had submitted a plan of Articles of Confederation for the Colonies. At that time Congress had no fixed purposes, and his sketches were unnoticed. The next year, which resulted in a fuller development of the feelings of the people, and the Declaration of Independence, enabled Congress to form such plans as were calculated to meet the pressure of the times. Before any final action had been taken in reference to the Declaration, Congress, on the 11th of June, resolved that a committee be appointed to draft a form of Articles of Confederation. The committee consisted of one from each State. John Dickinson, of Pennsylvania, who would have voted against the Declaration had he been present, was chosen chairman. Through the chairman a draft was reported to Congress on the 12th of July. Repeated debate ensued upon the report up to the 20th of August, when it was laid upon the table.

On the 7th of April, 1777, the subject was again brought up. Whilst the Journals of Congress present but little information in reference to the views of members from different

other counties, to "concert and determine upon such measures as shall be judged most effectual for the preservation and re-establishment of American rights and privileges, and for the restoration of harmony between Great Britain and the Colonies." Queen's county approved the proceeding.

*Pennsylvania*.—"To attend the General Congress." Delegates appointed by Provincial Assembly.

*New Jersey*.—"To attend the Continental Congress, and to report their proceedings to the next session of the General Assembly." Delegates appointed by the Colonial Assembly.

*Virginia*.—"To represent this Colony in General Congress, to be held," &c. Delegates appointed by convention.

*North Carolina*.—"Such powers as may make any acts done by them, or any of them, or consent given in behalf of this province, obligatory, in honor, upon every inhabitant thereof." Delegates appointed by convention, and approved in General Assembly.

*South Carolina*.—"To concert, agree to, and effectually prosecute such measures as, in the opinion of the said deputies and the deputies to be assembled, shall be most likely to attain a redress of American grievances." Delegates appointed by Provincial Congress.

The credentials from the delegates from Rhode Island are not on record. They did not attend until the second meeting of Congress. Georgia was not represented in this Congress until September, 1775. She was considered a party to the Declaration of Independence. Lyman Hall appeared as delegate from the parish of St. Johns, on the 13th of May, 1775, but was never regarded as the representative of Georgia. See note to Tucker's work on Constitutional Law, page 63, and Journals of the second Congress.



sections of the country, it appears that many conflicting interests were strenuously advocated. The debates were continued almost daily, from the 7th of October to the 15th of November. On that day the Articles of Confederation were adopted. A committee of three were appointed to have the articles translated into the French language, and to prepare and report an address to the inhabitants of *Canada* to become a portion of the Confederacy. Congress directed a copy to be sent to the speakers of the different State legislatures, for their action. A communication was sent along with them, requesting the legislatures, if approving, to instruct their delegates in Congress to vote for ratifying them. "We have reason to regret," says the address, "the time which has elapsed in preparing this plan for consideration. With additional solicitude we look forward to that which must be necessarily spent before it can be ratified. Every motive loudly calls upon us to hasten its conclusion. More than any other consideration, it will confound our foreign enemies, defeat the flagitious practices of the disaffected, strengthen and confirm our friends, support our public credit, restore the value of our money, enable us to maintain our fleets and armies, add weight and respect to our councils at home, and to our treaties abroad. In short, this salutary measure can no longer be deferred."

In the mean time the different States had formed their Constitutions, the political aspect of the country seemed rapidly developing, and the fundamental principles of government placed upon a firm, practical, and intelligible basis.\*

Congress had been acknowledged as the supreme head of affairs, in everything pertaining to the public policy. Bills of credit had been issued, foreign ministers appointed, and negotiations carried on with different foreign governments. By the Articles of Confederation the sovereignty of each State was recognized, though it was a paper to which the *States* had not been parties, the members of the Congress that framed it not having been elected by the people, but appointed by the different State legislatures, yet Congress could not exercise any powers except such as were especially delegated. The Third Article sets forth the purpose of the confederation by the States, "for their common defence, the

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\* The Articles of Confederation, though agreed to on the 15th of November, 1777, were not signed until the 9th of July, 1778.

security of their liberties, and their mutual and general welfare." Under the articles each *State* voted, but only *one vote* was permitted. Each State maintained the expenses of its delegates "in a meeting of the States," and when they acted as "members of the committee of the States."\* The expenses of the war were to be defrayed out of a common treasure, raised by a tax on all land within each State that had been granted to or surveyed for any person, which was to be laid and levied by authority and direction of each State. Congress was the only national judiciary to which the right of appeal existed upon all questions between the States.

When the Articles of Confederation reached the different State legislatures they encountered strong and decided opposition. It was objected to them, because each State had an equal voice in Congress; the question of limits and boundaries between the States were unadjusted; the title and control of the Crown lands were unsettled, and other omissions were deemed defects.

1788. On the 9th of July, the delegates from New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Virginia, and South Carolina, signed the Articles. The delegates from New Jersey, Delaware, and Maryland, were not empowered to sign. Georgia and North Carolina were not represented at that time, though their delegates must have appeared very soon thereafter; as they signed for North Carolina on the 21st of July, for Georgia the 24th of the same month. The act of New York was conditional, that all the other States should ratify. New Jersey on the 26th of November, Delaware on the 22d of February, and the 5th of May, 1779.

Maryland not only withheld her assent, but positively refused to ratify, until the title to the Crown lands should be settled. At length those States claiming the Crown lands, which consisted of waste and unpatented lands, ceded to the General Government their interest, for the benefit of the whole union. This being done, Maryland signed the Articles on the first day of March, 1781. The cession of the Crown lands to the Government of the United States was the origin of the Territorial System, out of which sprung the Northwestern Territory, and the celebrated ordinance passed by

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\* Congress had power to appoint a committee to sit in the recess of Congress, which was denominated a "Committee of the States."

Congress in July, 1787. The origin and growth of the territorial system is a most interesting and peculiar feature of the Government of the United States, which will be discussed in a subsequent chapter of this work.

Maryland was the last State whose assent had to be obtained, which, being done, made the confederation complete. The Congress of the United States assembled for the first time under these Articles on the 2d of March, 1781, being upwards of four years after they were first submitted to the States by Congress.

Stat. Man.,  
vol. iii.,  
1779.

The term of the Continental Congress is dividable into two periods; the first from the first meeting on the 4th of September, 1774, until the ratification of the Confederation, on the 1st of March, 1781; the second, from ratification of the Confederation until the organization of the government under the Constitution of the United States, on the 4th of March, 1789.

## CHAPTER II.

THE FORMATION AND ADOPTION OF THE CONSTITUTION OF  
THE UNITED STATES.

THE Articles of Confederation, cradled amidst the convulsions of the American Revolution,—their great purpose being to unite the Colonies more firmly and efficiently in the effort for liberty,—but imperfectly defined and established the functions of government; especially one rapidly developing all the features and resources that tend to make a people at once a powerful and respected nation.

The primary intent had been attained. The Colonies, assuming the name and character of sovereign States, had banded together to maintain those rights which the Declaration of Independence had asserted; to assist in the accomplishment of which a Congress was instituted with ample powers to organize and control the army.

1783. A definitive treaty of peace was signed the 3d of September between his Britannic Majesty and the United States. In August, 1782, Washington received a letter from Sir Guy Carlton and Admiral Digby, manifesting not only a pacific disposition, but informing him that Grenville was in Paris, authorized to treat with all the parties at war; and that he would propose the recognition of the independence of the States, instead of being made a condition of a general treaty. This letter was soon followed by one from Sir Guy Carlton, declaring his disapproval of a longer continuation of hostilities. These communications excited the fears of the French Ministers, in consequence of which Congress renewed the resolution "to enter into no discussion of any overtures for pacification but in confidence and concert with his most Christian Majesty."\*

Considerable difficulty was presented in arranging the preliminaries of the treaty. Pride and jealousy existed on the

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\* Secret Journals of Congress, vol. iii., p. 249.

part of France and Spain towards England, as an old and bitter rival, which seemed at one time likely to defeat the object of the United States in their effort for pacification. Delay was also produced in reference to the arrangement of boundaries, and the participation of the United States in the fisheries. On these points the interest of France and Spain conflicted with the United States; "and the cabinets both of Versailles and Madrid seemed disposed to intrigue with that of London, to prevent such ample concessions respecting them as the British Minister might be inclined to make."

The penetration and firmness of our commissioners eventually succeeded, and a treaty was adjusted highly acceptable to the United States, especially on the questions of boundaries and fisheries.\* Experience has proved the truth of the effort of the commissioners of the United States to convince the British Ministry, that the interest of their country would be enhanced by a liberal policy towards the United States, and of their becoming independent in fact as well as in name. This treaty was suspended until peace should exist between France and Great Britain. The European war had been vexatiously protracted by the obstinate perseverance of Spain in the effort to obtain Gibraltar. The enterprise was at length abandoned, and preliminary articles of peace were signed between France, Spain, and Great Britain, in 1783; after which the United States were recognized "to be free, sovereign, and independent States."

The Articles of Confederation had triumphantly borne the country through the war of the Revolution, yet it was manifest that they were inadequate to the wants of the people. No executive department existed as a separate branch of government; no judiciary had been established with defined limits; no senate. The three co-ordinate departments necessary for a free government existed with, and were exercised by one and the same body, the powers of which were imperfect. No treasury existed, save that derived from the power to levy a tax upon the several States in proportion to the value of all land within each State, granted to or surveyed for any person.†

A heavy debt existed, with no other resource to raise the means of liquidation. No commerce had yet borne to our

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\* Marshall's Life of Washington, vol. ii., p. 40.

† Articles of Confederation.



shores the products and wealth of the world; nor did the power to regulate it exist. Great dissatisfaction was manifested towards the government. Indifference to the payment of the tax. Law was disregarded. Alarming symptoms of anarchy prevailed. A dissolution of the Confederacy was threatened and feared. The well-informed and reflecting minds of the Revolution looked on with anxious apprehension, fearing the work thus far accomplished through hardship, peril, and death, might be overthrown from the want of a more efficient organization.

The minds of the leading statesmen were actively turned to the state of affairs existing after the treaty of peace. The press then opened its channels for the purpose of interesting the people in this important question. Many able men resorted to the pen. The first, and one of the best efforts published at this time, showing the inefficiency of the Articles of Confederation, was a pamphlet by Noah Webster, called "Sketches of American Policy," issued in the winter of 1784-85, in which he undertook to show that it was absolutely necessary for the safety of the United States to form a new government; one which should act directly on the people; vesting in Congress full powers to carry its laws into operation. No one was more interested than Washington in the effort to establish a more efficient government. On the 5th of March, 1785, a set of commissioners from Virginia and Maryland, appointed through his influence, assembled at

1785.

Mount Vernon for the purpose of taking into consideration a scheme for uniting the waters of the Potomac and Ohio, as a commercial connection between the East and West. They spent some time there, but adopted no plan, except the recommendation of another commission to establish a general tariff on imposts, and mature other commercial regulations. The convention thus recommended was held at Annapolis, in September, 1786.\* Five States only

1786.

were represented.† The delegates adjourned without doing anything, except addressing a written report to the legislatures who were represented in convention, stating the partial representation of the States prevented

\* Lossing, 1776, p. 362.

† From New York, Alexander Hamilton and E. Benson; New Jersey, A. Clark, W. C. Houston, G. Schużeman; Pennsylvania, Tench Coxe; Delaware, G. Reed, G. Dickinson, and R. Basset; Virginia, Edmund Randolph, James Madison, Jr., and St. George Tucker.

them from acting. They recommended that another convention should assemble, designating Philadelphia and the second Monday in May, 1787, as the place and time of meeting. The commissioners from those States represented at Annapolis stated differently and imperfectly the powers delegated to them. The general object was to take into consideration the condition of the commerce and trade of the country. They possessed no power to alter or amend the Articles of Confederation; but stating it as their firm conviction that they were inadequate to the exigency of the country, they recommended that the delegates to the convention should be intrusted with more enlarged powers, "to devise such further provisions as shall appear to them necessary to render the Constitution of the Federal Government adequate to the exigencies of the Union."\* This report was transmitted to Congress, and referred to a committee of Feb. 21, 1787, that body, consisting of Messrs. Dane, Varnum, S. M. Mitchell, Smith, Cadwalader, Irvine, N. Mitchell, Forrest, Grayson, Blount, Bull, and Few.

The committee, after a mature consideration of the report of the convention, as well as the letter of John Dickinson, the chairman, offered, in place of a formal report, a resolution to the effect that Congress, having had the report of the convention that assembled at Annapolis under consideration, and believing the Articles of Confederation inadequate for the purposes of the Union, strongly recommend the different legislatures to send delegates to meet in the proposed convention on the second Monday in May, 1787. It was in compliance with this recommendation that delegates were chosen in the several States, "for the purpose of revising the Articles of Confederation and reporting to Congress and the several State legislatures such alterations and provisions therein, as shall, *when agreed to in Congress and confirmed by the States, render the Federal Constitution adequate to the exigencies of the government.*"

On the second Monday in May, 1787, this convention assembled in Philadelphia. It was seen at once that an entirely new constitution must be framed,—though it was opposed by some who were inclined to adhere to the Articles of Confederation,—with such modifications as were imperiously required to sustain the Federal Government. A most important and

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\* *Vide* Address of the Commissioners.

critical period had arrived. Peace had spread her  
1787. halyon wing over the recent arena of war. Plenty  
would soon smile upon a land of freedom. Yet all was not  
effected. A form of government was needed: the one that  
existed was radically defective. A people whose progress  
has gradually developed with their government, slightly ap-  
preciate the wisdom requisite to frame, adjust, and operate a  
government. Different features have been adopted, policy  
altered to suit accumulating wants, with such gradual trans-  
formation, that a nation's progress makes little impression at  
home or abroad, until wealth, science, and power, mark its  
place among the most advanced. With this convention labor  
and difficulty were present, beyond what ever devolved upon  
any deliberative body.

A people with every element of greatness,—their way not  
worked to eminence by slow degrees,—but emerging from  
the storms of the Revolution, stood forth enlightened, power-  
ful, and respected; equal to the first nations of the earth,  
requiring a government at once suitable to their condition.  
For such a people, with many various and conflicting interests,  
had the statesmen who formed this convention, to labor and  
contend. Enlightened and patriotic, with hearts unknown to  
fear and above reproach, they addressed themselves to the  
task of forming a constitution for the United States. No  
picture can adequately represent the feelings of this body,  
or the interest that hung upon their deliberations. All eyes  
turned anxiously to them as the pillar of the hopes and hap-  
piness of three millions of people, whose all had been invested  
in the grandest of efforts, the late Revolution. The crowning  
piece was now to be executed,—a form of government,—in  
consonance with the Declaration of Independence, and that  
spirit of freedom which first and last fanned the flames of  
war.

New powers were to be created. This occasioned the  
greatest apprehension on the minds of the people, recently  
from the thralldom of royalty. They knew the self-accretive  
tendency of power, and feared, in process of time, the evils  
they had overcome in overthrowing the English government  
would be revived on their own soil.

The Convention was organized by calling George  
May 25, Washington to preside over its deliberations. The  
1787. only other proceeding on that day was the appoint-  
ment of a committee to prepare standing rules and orders.

On Monday, the 28th, they were reported to the House by the committee, Messrs. Wythe, Hamilton, and C. Pinckney. The rules being adopted unanimously, the House adjourned without proceeding to any other business. On the next day Randolph, of Virginia, opened the main business of the Convention. In this, the first speech delivered in this assemblage, in reference to the engrossing topic of the alteration of the Articles of Confederation, Randolph plainly enumerated the defects that existed, and the manner in which they should be supplied by the constitution to be framed. Among the defects of the Articles, he stated they afforded no security against foreign invasion, Congress having no power to prevent or commence war, or authority to support it. The Federal Government could not check quarrels among the States, or suppress rebellion. The Federal Government could not even defend itself against encroachment from the States; nor was its authority even paramount to that of the States. The first series of resolutions, which are copied from the Madison Papers, were then offered by Randolph. They are of great importance in our constitutional history, showing as they do, fully and distinctly, the design of the Convention, as well as the opinions of the leading men who composed it. They are as follows:—

1. *Resolved*, That the Articles of Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution; namely, common defence, security of liberty, and general welfare.

2. *Resolved*, Therefore, that the rights of suffrage in the National Legislature ought to be proportioned to the quotas of contribution, or the number of free inhabitants, as the one or the other may seem best in different cases.

3. *Resolved*, That the National Legislature ought to consist of two branches.

4. *Resolved*, That the members of the first branch of the National Legislature ought to be elected by the people of the several States, every — for the term of —, to be of the age of — years at least; to receive liberal stipends by which they may be compensated for the devotion of their time to the public service; to be ineligible to any office established by a particular State, or under the authority of the United States, except those peculiarly belonging to the functions of the first branch, during the term of service, and for the space of — after its expiration; to be incapable of re-election for the



space of — after the expiration of their term of service, and to be subject to recall.

5. *Resolved*, That the members of the second branch of the National Legislature ought to be elected by those of the first, out of the proper number of persons nominated by the individual legislatures; to be of the age of — years at least; to hold their offices for a term sufficient to ensure their independency; to receive liberal stipends by which they may be compensated for the devotion of their time to the public service; and to be ineligible to any office established by a particular State, or under the authority of the United States, except those peculiarly belonging to the functions of the second branch, during the term of service, and for the space of — after the expiration thereof.

6. *Resolved*, That each branch ought to possess the right of originating acts; that the National Legislature ought to be empowered to enjoy the legislative rights vested in Congress by the confederation; and, moreover, to legislate in all cases in which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation; to negative all laws passed by the several States, contravening in opinion the National Legislature, the articles of union, or any treaty subsisting under the authority of the Union; and to call forth the force of the Union against any member of the Union failing to fulfill its duty under the articles thereof.

7. *Resolved*, That a National Executive be instituted, to be chosen by the National Legislature for the term of —; to receive punctually at stated times a fixed compensation for the services rendered, in which no increase or diminution shall be made, so as to affect the magistracy existing at the time of increase or diminution, and to be ineligible a second time; and that besides a general authority to execute the national laws, it ought to enjoy the executive rights vested in Congress by the confederation.

8. *Resolved*, That the Executive, and a convenient number of the National Judiciary, ought to compose a council of revision, with authority to examine every act of the National Legislature before it shall operate, and every act of a particular legislature before a negative thereon shall be final; and that the dissent of the said council shall amount to a rejection unless the act of the National Legislature be again passed, or that of a particular legislature be again negatived by — of the members of each branch.



9. *Resolved*, That a National Judiciary be established, to consist of one or more supreme tribunals to be chosen by the National Legislature; to hold their offices during good behavior; and to receive punctually at stated times fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution; that the jurisdiction of the inferior tribunals shall be to hear and determine in the first instance, and of the supreme tribunal to hear and determine in the dernier resort, all piracies and felonies on the high seas, captures from an enemy, cases in which foreigners or citizens of other States applying to such jurisdiction may be interested, or which respect the collection of the national revenue, impeachments of any national officers, and questions which may involve the national peace and harmony.

10. *Resolved*, That provision ought to be made for the admission of States lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory or otherwise, with the consent of a number of voices in the National Legislature less than the whole.

11. *Resolved*, That a republican government, and the territory of each State, except in the instance of a voluntary junction of government and territory, ought to be guaranteed by the United States to each State.

12. *Resolved*, That provision ought to be made for the continuance of Congress, and their authorities and privileges, until a given day after the reform of the Articles of Union shall be adopted, and for the completion of all their engagements.

13. *Resolved*, That provision ought to be made for the amendment of the Articles of Union, whenever it shall seem necessary; and that the assent of the National Legislature ought to be required thereto.

14. *Resolved*, That the legislative, executive, and judiciary powers within the several States ought to be bound by oath to support the Articles of Union.

15. *Resolved*, That the amendments which shall be offered to the confederation by the Convention, ought at proper time or times, after the approbation of Congress, to be submitted to an assembly or assemblies of representatives recommended by the several legislatures, to be expressly chosen by the people to decide thereon.

These were the resolutions first offered to the consideration

of the Convention. They embody the principles of a free government, though somewhat objectionable in several of their details. Whilst other plans were offered by different members, especially by Charles Pinckney and Hamilton, the plan offered by Randolph was taken immediately under discussion, and formed the basis on which our Constitution was erected. Other plans were however submitted to the consideration of the Convention. Whilst debating the features of Randolph's project, Dickinson offered a resolution to the effect that the Articles of Confederation ought to be revised and amended so as to render the Government of the United States adequate to the exigencies, the preservation, and prosperity of the Union. This was adopted with entire unanimity, save the divided vote of Pennsylvania. Hamilton supported it with great zeal and ability, in a speech he made on the occasion. He read to the Convention a paper containing his ideas of a suitable plan of government for the United States, which embraced the following prominent features:—

June 18,  
1787.

Elliott's  
Debates,  
vol. iii.

1. The supreme legislative power to be vested in two distinct bodies of men,—one the Assembly, the other the Senate,—who, together, were to form the Legislature of the United States, with power to pass all laws whatsoever.
2. The members of the Assembly to be elected by the people, to serve three years.
3. Senate elected to serve during good behavior, by electors chosen for that purpose by the people.
4. The supreme executive authority to be vested in a Governor, to serve during good behavior; his election to be by electors chosen by the people. He was to have a negative on all laws about to be passed; to have entire direction of war when authorized or begun; to have, with the advice and approbation of the Senate, the power of making all treaties; to have the sole appointment of the heads of departments, of finance, war, and foreign affairs; to have the nomination of all other officers, (ambassadors of foreign nations included,) subject to the approbation or rejection of the Senate; to have the power of pardoning all offences, except treason, which he could not pardon without the approbation of the Senate.
5. On the death, resignation, or removal of the Governor, his place to be occupied by the President of the Senate until a successor could be appointed.

The plan embraced a provision for a national judiciary not unlike Randolph's. The Senate to have the sole power of declaring war. The governors of the States, senators, and all officers of the United States, to be liable to impeachment for mal and corrupt conduct; upon conviction to be removed from office, and disqualified for holding any place of trust or profit. Impeachments to be tried by a court to consist of the chief or senior judge of the superior court of law in each State; provided, such judge hold his place during good behavior, and have a permanent salary. Laws of the States contrary to the Constitution to be utterly void; to prevent such laws being passed, the governor or president of each State to be appointed by the General Government, and to have a negative upon laws about to be passed in the State of which he is governor or president. No State to have a land or naval force. The militia of all the States to be under the exclusive direction of the United States, the officers of which to be appointed and commissioned by them.

This was the plan of Hamilton. His opinions and sentiments, though greatly perverted and exaggerated now, as then, were known to tend towards a stronger and more centralized power than perhaps any other prominent member of the Convention. From the plan offered, it is clear he was not at the time, and I doubt if ever, a monarchist, though so accused. All look now with abhorrence upon the scheme of Hamilton. All can now see how it would have subverted every principle of republicanism. Not a vestige of the State-Rights principle would have been traceable in a few years. This chief light and life-sustaining principle of American freedom would, at an early day, have been engulfed by the capacious powers of the General Government. The votes of Hamilton throughout the Convention indicate his disposition for a more enlarged action of the Government than was adopted by the Constitution. When he discovered his efforts unavailing,—when the last final steps were being taken,—this undeviating patriot, discarding his predilections, gave his vote along with the Convention for the unanimous adoption of the Constitution, as it was afterwards ratified.\* He did more than any other man, as the numbers of the "*Federalist*" attest, by his powerful

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\* Mason and Randolph, of Virginia, Lansing and Yates, of New York,—the two last quitting the Convention before adjournment,—refused to sign. (*Vide Elliott's Debates*, vol. iii.)

talent, his energetic pen, and ardent and laborious effort, to procure its ratification. He appeared at once to imbibe its spirit, and proved among its ablest and brightest expounders. Randolph's resolutions appeared the choice of the Convention, upon which their efforts were to be engaged. In offering a plan, it was impossible to embrace the details of the powers to be intrusted to the different departments. It was as it should be, the skeleton of a Constitution, leaving the nerves, organs, and arteries to be created and supplied with the vital principle, by amendments necessarily to be offered in convention. Here were suggested the first great fundamental principles of our Government,—the three grand arteries of power, legislative, executive, and judiciary,—and the division of the two departments of the legislative branch.

The resolutions were taken up seriatim, with their amendments, and voted upon, having been previously referred to a committee of the whole.

The various amendments offered and rejected, and the manner in which they passed, will not be noticed in this place, though frequent allusion will be made to them in discussing the different powers granted by the Convention. The Convention sat from May the 14th, 1787, until the 17th of September. On this memorable and momentous day this glorious fabric of American liberty was ushered into life. Awful were the feelings of that patriot band who stood around this bantling of the war-storm, the first-born of the fruits of liberty, the first love and favorite of American statesmanship, the chartered rights of the people, where rested their security and happiness. It was passed unanimously, (though not signed by Mason and Randolph;) yet difficulties for awhile encompassed its earliest youth. On

Sept. 1787. the 28th of the same month of the adjournment of the Convention, Congress received its report, with the Constitution recommended for ratification.

The geographical position of the different States, with consequent diversity of agricultural and commercial interest, in connection with the unavoidable difference of opinion from political association, habit, and cast of mind, occasioned such difficulty as could not have been overcome, had it not been for that wise spirit of compromise which necessity demanded should enter at once into the deliberations of the Convention, and infuse itself into the very heart of the Constitution. The Convention expressed its sentiments, and ex-



hibited its trials and difficulties, in the labors encountered during its session, by a letter ordered to be addressed to Congress.

"In all our deliberations on this subject," says the letter, "we have kept steadily in view that which appeared to us the greatest interest of every American, the consideration of our union; in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State to be less rigid in points of inferior magnitude than might have been otherwise expected, and thus the Constitution which we now present is the result of a *spirit of amity*, and that mutual deference and *concession* which the peculiarity of our situation rendered indispensable."\*

Upon the reception of the Constitution, the Continental Congress passed a resolution unanimously, transmitting the Constitution, report, and letters of the Convention, to the several State legislatures, to be submitted to a convention of delegates chosen in each State by the people thereof, in conformity to the resolutions of the late Convention. The State legislatures accordingly passed acts calling conventions to act upon the Constitution. The conventions sat at nearly the same time, and, as their labors closed, transmitted the ratification of the several States to Congress. Accompanying the ratification of each State were resolutions and declarations by the different conventions, expressive of the understanding of the Constitution entertained by the conventions for ratification, pointing out what were considered defects, principles that were dangerous, especially to the rights of local sovereignty, and the means of remedy. The reader is referred to the note at the end of this chapter, where he will find the substance of the declarations by the States condensed.

A large and intelligent party existed in all the States opposed to the ratification of the Constitution, especially in New York and Virginia; whilst North Carolina, at her convention, refused either to adopt or reject. Maryland at first positively refused, except some provision was made in reference to the Crown lands; and Rhode Island held out until 1790.

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\* The letter from which the above is an extract, was deposited by Washington at the Department of State, but has been published in several political works. (See Elliott's Debates, vol. iii. p. 195.)



In Virginia, the opposing party were led on by that unrivaled orator and devoted apostle of the rights of man,—Patrick Henry,—who, in his zeal for popular rights, carried his opposition to an immoderate extent, which appeared for a time to involve the fate of Virginia in reference to her Federal connection. Henry and his party objected to the Constitution because it gave too much strength to the Federal Government. “You have lost the sword and the power,” exclaimed Henry. The words of the preamble—“We, the people”—formed a topic for his most indignant and powerful declamation. With all the violence of his denunciation, his burning “forest-born eloquence,” his high personal influence, his virtue, that throws an everlasting halo around his name and writes in words of gold his enduring epitaph, his efforts nevertheless ultimately failed.

Edmund Randolph, who had taken a bold and active part in the Federal Convention, distinguished as he was for powers of debate, with capacity for deep and comprehensive statesmanship, was likewise in the Virginia Convention. He had refused, along with Mason, to sign the Constitution. He had written a long and able letter to the Speaker of the House of Delegates, setting forth objections which were deemed strong and decided against the Constitution.\* He contended that the legislative and executive were too much concentrated; that the representation of the States bore no proportion to their relative importance in the Union. It was expected that Randolph and Mason, whose influence would probably have turned the decision of the Convention, would have been arrayed against the Constitution. They did not surrender the opinions entertained: they were willing to adopt, because they feared its rejection might blast the hopes of Virginia. The Convention ratified the Constitution for Virginia.

Henry, though gifted with an oratory not so elegant, yet perhaps the most powerful that ever fell upon human ears, was not so profoundly versed in the philosophy of government as others of the Convention. In Randolph, he found an over-match in compact and lucid reasoning; whilst the fervor of his eloquence cooled before the mild and persuasive arguments of James Madison.

Hamilton was the only member from New York who signed

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\* Randolph's letter to the Speaker of the Virginia House of Delegates, October 10, 1787. Published in Elliott's Debates, vol. iii. p. 129.

the Constitution. Lansing and Yates went home; they left upon the enduring page of history their reasons: they thought the Convention was called for the purpose of amending the Articles of Confederation; they had taken their seats as members from New York for that purpose; they found, to their surprise, that this Constitution embraced the principles of consolidation. Such was their opinion. Thinking if they remained in the Convention and voted for the Constitution—as they saw it would pass—they would be unfaithful to the trust they held, they went home, having addressed a letter to the Governor of New York, embracing their reasons.\*

These gentlemen feared the sovereignty of the States was absorbed by the enlarged capacity of the General Government.

Lansing was a member of the Convention of New York for ratifying the Federal Constitution. He offered a resolution allowing New York, in a certain number of years, to withdraw from the Union, unless the amendments proposed by the New York Convention should be previously submitted to a general convention, which was voted down by an overwhelming majority.

Debates of  
N. Y. Con-  
vention.

The Constitution was submitted to each State, to act separately for itself in ratifying or not, there being no power to force the State into the Union. The fact of each one coming in with all the manifold objections that existed at the time, has occasioned much dispute upon the true bearing of the Federal Constitution upon the local sovereignties that exist with the States, and the true extent of power vested in the Federal Government. Did those able and honest patriots who thought the Government a consolidated one, yield their objections? They voted in most instances for the ratification of the Constitution. Did they think it too federal after it was ratified? Many of them, Henry at the lead, were afterwards found, in the administration of Washington, its firm friends. In the administration of the elder Adams, Henry was ever the supporter of the Alien and Sedition Law, as far as it involved constitutional principles. Upon the triumph of that party who were in favor of the Constitution, what consistent course remained to the party which opposed it but

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\* Letter of Yates and Lansing to the Governor of New York, June 5, 1787. Published in Elliott's Debates, vol. iii. p. 129.

to embrace the doctrine they contended would be the true interpretation, if ratified? A treaty may be opposed, and the effort made to defeat it; when signed by both contracting parties, notwithstanding the objectionable features, is it an honest philosophy which construes the objections into nothing and makes that the true understanding of the questions involved, which they wished in the first place to obtain by throwing out such features as formed the basis of their objections?

Whilst the Constitution was under consideration in the different States, a series of papers were published known as the "Federalist," from the pens of Hamilton, Madison, and Jay. The various provisions of the Constitution are ably and elaborately discussed. They are at this day considered the most accurate and elegant commentaries upon the Constitution that adorn the pages of our young though vigorous literature. The design of these papers was to show the absolute necessity of a Federal Government; that the best Constitution that could be framed was the one submitted; that the different powers vested in the Federal Government were not incompatible with liberty; that the sovereignty of the States was not invaded; and a general elucidation of the principles of the Government, as understood by the ablest statesmen of that day. This was the mission of those papers, and in their day and generation they fully accomplished it. The Constitution, meeting with bold and energetic opposition by a respectable party, because it created a stronger government than was deemed by this party safe and proper, its advocates were branded as Federalists; which epithet, at first used as a designation of the party who advocated the Constitution, was ultimately employed to note those upon whom the vain endeavor was made to characterize as inimical to a republican government. It was falsely charged upon them that they wished to promote their design by taking from the States their rightful sovereignty, and concentrate power in the Federal Government. The term became one of party distinction. They succeeded in procuring the ratification of the Constitution. They gave the Government its early stamp, and dignity and character. We may at this day look back in proud admiration upon the early Federal party as the "Fathers of the Republic." They were, and are now, unjustly visited with errors they never committed. They have been falsely slandered because the people were unacquainted with

their character and sentiments, or listened with over-confidence to the voice of the unscrupulous. The Federal party that came into life with the birth of the Constitution, was not the Federal party that died with the overthrow of the administration of the elder Adams. Whatever remote likeness may be traced, that party may be considered as having been reorganized and readjusted before the second administration had run its course.

No greater eulogy can be presented to the world of the virtue of the members, the necessity and practical advantage of the measures of the Federal party in the first days of our Republic, than the historic truth that among its leaders are found Washington, Franklin, Hamilton, Jay, Madison, Randolph,—a large majority of the United States Congress for eight years; and the fact of the success of the Government of which Washington was President. The historian requires no other facts, an enlightened age no other argument.

History, tradition, and the lingering testimony of a few honest old patriots, whose purity of heart defied the powers of defamation, all point to the Federalists as the architects of the Union; whilst the concurrent testimony of every document and vote exists to prove their virtue, their patriotism, their fidelity to republican institutions, as well as the eminent correctness of their views. Scattered through the country, the intelligent citizen, the fixed and steady proprietors of the soil of that day, without pomp or worldly distinction, save a brave and honest heart, were those of the Federal school in its earlier days.

No greater error exists than that which helped to sink the Federal party, and even now strives to cover their memory with shame. That they were the advocates of too strong and consolidated features of government for a republican system, or that they wished to concentrate too much power in the executive arm, is proven false by their every vote and speech and letter. They were at first properly styled Federalists,

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NOTE.—The following are the dates of the ratification of the Constitution by the Thirteen States :

Delaware, December 7, 1787.  
 Pennsylvania, December 12, 1787.  
 New Jersey, December 18, 1787.  
 Georgia, January 2, 1788.  
 Connecticut, January 9, 1788.  
 Massachusetts, February 6, 1788.  
 Maryland, April 28, 1788.

South Carolina, May 23, 1788.  
 New Hampshire, June 21, 1788.  
 Virginia, June 26, 1788.  
 New York, July 26, 1788.  
 North Carolina, November 21, 1789.  
 Rhode Island, May 29, 1790.



because they urged the adoption of the present Constitution. The name should only have been historical when the Federal party triumphed. No distinctive name of Federalist could afterwards exist. Even then "all were Federalists, all were Republicans." The cause that led to a continuation of the name, and the future history of the party, will be noticed in a different part of this work.

The grand and leading features of our Constitution consist in the three divisions of power which form the Government,—the Executive, Legislative, and Judiciary. The separate functions, with the blended harmony of the whole, strikes the admiration of all. It forms a beautiful and delightful theme, upon which the American mingles his meditations and his gratitude; whilst the foreigner who affects to hate, is yet struck with amazement at the simplicity, though unexampled power of a government to which he bestows his reluctant homage, which, in its amplified adjustment to the wants of man, yields a willing and secure protection to the oppressed, the needy, and self-exiled of the nations of the earth. Various propositions were discussed in convention relative to the power and limitations of the executive. Hamilton, who did not entertain the most favorable idea of a republican government, urged that the executive should be for life, with an unqualified negative upon all acts of the legislature. Notwithstanding Hamilton's dislike of the plan of government recommended by the Convention, he declared his willingness to support the Constitution if adopted, which he did with an active zeal and ability surpassed by none. It was early seen that the power of the executive ought not to be extensive. Madison looked with great coolness and caution to the manner of its construction. Many members were in favor of a plurality in this department, but were vigorously opposed by Madison, Pinckney, and other distinguished members of the Convention. Finally, the powers of the executive were distinctly and satisfactorily settled, as exercised and understood by the Constitution.

It was wisely determined that the office of President should not only embrace a limited power, but be filled by one person. Promptness, decision, and force, to the extent of the authority conferred, is very much required in this department, which is more effectively obtained by a single executive. The powers were judiciously limited to the execution of the laws; the veto power as defined by the Constitution; the chief command of



the army and navy when called into active service; the power to grant reprieves and pardons for offences against the United States, except in cases of impeachment. There are other powers granted; as the power of appointment to various offices, some by and with the advice and consent of the Senate, others without it, and certain important powers in reference to treaties. The last will be discussed under a different head. In the plan submitted to the Convention by Charles Pinckney, the veto power was insisted as follows:—"If he approves it" (meaning any law) "he shall sign it, but if he does not approve it he shall return it, with his objections, to the House it originated in."\* Some time afterwards it was moved by Gerry, "that the national executive shall have a right to negative any legislative act which shall not be afterwards passed by ——— part of each branch of the national legislature." Wilson and Hamilton moved to strike out the blank in Gerry's resolution, and give the executive an absolute negative on the laws. Dr. Franklin opposed the veto power. He referred to the example of the Governor of Pennsylvania, of whom he said "no good law could be passed without a private bargain with him." Sherman was against enabling any one man to stop the will of the whole. After various motions and much excited debate, Butler moved "that the national executive have power to suspend any legislative act for the term of ———." Dr. Franklin seconded the motion. It was remarked with great truth that the power to suspend might do all the mischief dreaded from vetoing useful laws, without answering the healthful purpose of checking unjust or unwise legislation. On the motion being put by Butler, every State voted in the negative.

On the question of enabling two-thirds of each branch of the legislature to pass a law notwithstanding the President's veto, it passed *sub silentio* in the affirmative, and the blank in Gerry's motion was accordingly filled.† With but little difficulty was this most essential power vested, with its proper limitation, in the President. It has been rarely used in the political history of our country. Experience proves the absence of all danger attending its exercise. Reason and past observance point to its necessity. If party zeal, or the want of due consideration from hasty legislation, should place the President under the necessity of exercising it, it would doubt-

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\* Madison Papers, vol. ii. p. 739.

† Madison Papers, vol. ii. p. 790.

less meet the entire approbation of the country, as the minds of men were calmed by reflection, and the act of the executive viewed free from the excitement oftentimes incident to the passion of party.

In discussing the next feature of our Government,—the legislative,—it is proposed only to notice its structure; the powers bestowed, and the general range of its authority, will be brought to the attention of the reader in another part of this work. It was at once foreseen that Congress ought to consist of two branches,—the Senate and House of Representatives. The earliest difficulty was the mode of electing the members of the two branches, and their time of service. The third resolution of Randolph,—“that the National Legislature ought to consist of two branches,”—was agreed to without debate or dissent, except from Pennsylvania, which probably resulted from the influence of Dr. Franklin, who was understood to favor the idea of a single house of legislation.

The fourth resolution of Randolph—which will be found in the series heretofore cited—was opposed chiefly by Sherman, upon the ground that members to the House of Representatives ought not to be elected by the *people*. This gave rise to a most interesting and important debate. Upon the decision of this question doubtless rested the fate of the Constitution for a period if not forever. Had not this great representative feature of popular rights been incorporated in the Constitution, it would have been the instantaneous cause of prompt and decided rejection by a large majority of the people of each State. Mason, Wilson, and others, especially Madison, entered with zeal into this debate, which seemed to involve the safety of republican freedom to the people of the United States. Their whole strength and talent were employed to avert this the death-blow of the work and labor of the Constitution itself. Randolph's resolution was ultimately carried by a vote of five to two, Connecticut and Delaware being divided.

The Convention then proceeded to the consideration of the fifth resolution, which had reference to the establishment of the Senate. It was moved by Spaight that the Senators be elected by the State legislatures. This motion was withdrawn, and the question came up on Randolph's original resolution, which, on being submitted to the House, was decided in the negative. Various resolutions were then offered,

proposing the election of members to the Senate by the people, others vesting the power of appointing them in the President. It was finally decided after considerable debate, on motion of Dickinson, that the Senate should be composed of members to be elected by the State legislatures.

The equality of each State in the Senate, and the manner of electing its members, is perhaps the most beautiful, interesting, and important feature in the structure of our Government. In the House of Representatives each State has its proportionate influence in accordance with its population, where the members are collected as the direct representatives of the people, each member looking to his immediate district as his only constituency, which has often been the subject of legislation and alteration as it increased or diminished in population; which change is often visible by an alteration in the House of Representatives in the relative strength of the States.

It was debated whether the States should not be represented in the Senate in reference to their population and wealth; population, and the multiplied interest connected with it, had received its preponderance in the other branch. The Senate, it was contended with force and truth, was designed to represent the *States* in their *political character*; that it would be unjust to the small States to place them on grounds of inequality with the large States. The interest of a small State, as a sovereign power, is the same as a large one, and should, as it does, stand equal in dignity, character, and importance. When Vermont consented to come into the Union, she brought to the compact the same influence with the State of New York. The same sovereignty, entire and undiminished by comparison, sealed and sanctioned the Constitution in the one case as in the other. The Senate was designed to be, and is, the representative of the unrelinquished and enduring sovereignty of the States, as separate and distinct from the representative of the people; as is the other branch of the National Legislature, where numbers have their due preponderancy. It being agreed that Congress should consist of two branches, the manner in which the members should be elected, the respective influence and defined position of the people and the States, the representative rights of each, if mingling, as the air we breathe and the light that falls upon us, yet as distinct, the next and most

momentous task was to define the joint and separate duties and powers of this dual arm of the Government.

It was conceded that the Congress existing under the Articles of Confederation was impotent, because of the restrictions thrown around it. It was also true that this Convention was acting under restrictions it dare not violate. Its authority to sit and act was derived from a source not only to be ultimately consulted, but obeyed. The States were its constituents: cautious in the protection of their own sovereignty, though a power more extensive was being created.

The Convention, in addressing itself to the specific grant of powers to Congress, took up the sixth resolution of Randolph, stating the sphere in which the National Legislature ought to act. It was unanimously decided that each branch should originate laws, and likewise transferring all the existing legislative powers to the Convention, which then sat as Congress. The grant of powers vested in Congress as appears in the Constitution, to which the reader is referred, passed with very little objection. Upon the proposition giving legislative power in all cases in which the State legislatures were incompetent, Butler expressed fears that the Convention was going to an extreme, tending to too much power in the Federal head, as well as an encroachment upon the powers of the States. Randolph, the mover of the resolution, freely and fully expressed himself against the wish or intention to take any step that might be considered an inroad upon the sovereignty or jurisdiction of the States. Madison was opposed to any enumeration of the powers of the National Legislature. This question was however decided by a large majority in the affirmative, Connecticut only being divided. On motion of Dr. Franklin, the other part of the resolution "*giving powers necessary to preserve harmony among the States, to negative all laws contravening in the opinion of the National Legislature, the Articles of Union,*" was adopted without debate, and unanimously.\*

The last clause of the sixth resolution came next under consideration, authorizing an exercise of the *force* of the General Government against a delinquent State. Madison opposed it, remarking that he disliked the use of the term *force*, looking too much like the power to declare war; and would probably be considered by the party against whom it

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\* Madison Papers, page 761.



was used as a dissolution of the compact. He moved the postponement of this question, which was unanimously agreed to and never again brought before the Convention.

The manner in which these questions originated, and that in the early part of the session, throws a flood of light upon the all-important and most vital principle of our Constitution,—the relative rights of the States and Federal Government. This topic has been so fully discussed by Chancellor Kent, Judge Story, Judge Kenny, St. George Tucker, and other elegant and able jurists of the United States, that the author forbears at this time entering into the intricacies of a subject which has been so fully and ably treated. It is, and will continue a vexed question, assuming an increased importance and difficulty, not only as our relations become multiplied from the increasing number of States, with a diversity of interest and feeling, but as it also becomes more and more degraded as the dangerous tool of party warfare. Whilst it is conceded that the framers of the Constitution intended, and have created a government with self-sustaining powers, I have no idea,—and abundant authority supports me in the proceedings of the Convention, the works of eminent writers, the learning of the Judiciary, the common principle of justice and right,—that the General Government should exercise any of its powers to the injury, oppression, or hardship of any State. The laws of Congress are made by the Constitution superior to the laws of the States; but it must be in the legitimate sphere of Congress to pass such laws before their supremacy can be asserted. If it be upon any subject beyond the control of the State, and vested by the Constitution in Congress, if it be for the benefit of the Union, though a particular law may fall heavily for a time upon a State, it is equally clear the State must submit. If the State does not yield a constitutional obedience, no other remedy is in existence or can exist, save the last, an inalienable prerogative of a people to exercise the right of revolution, when every other effort has failed. It cannot be denied, however, that the Government of the United States is invested with self-sustaining powers, and when its functionaries are satisfied that justice and constitutional right are with the General Government, its laws must and will be enforced.

The author is a warm advocate of the rights of the States. It is beyond dispute that they have reserved every right not directly or impliedly granted under the Constitution to the



General Government. When any right under this reservation is invaded, it becomes the State, with due regard to policy, to resist or not, as the injury or oppression of the United States Government may justify. If Congress, however, pass any law national in its bearing and constitutional, no State can legitimately oppose its operation. Unless this be the true bearing and spirit of the Constitution, as well as the practical operation of the government it has created, its purpose has been useless; its great written fundamental law a rope of sand; the Government of the United States a mere plaything of politicians and demagogues, as changeable as the Florentine Republic, where freedom was never known; as unstable as the political structures of the French people, where effort after effort has but paved the way of some unprincipled aspirant to unlimited power, unmindful of a nation's rights or happiness.

The third branch of the subject of this chapter leads to an examination of another arm of the National Government,—the Judiciary; which feature had no existence under the Articles of Confederation, except the narrow and restricted limits provided by the ninth section of the Articles of Confederation. During the period that elapsed while the Colonies were dependent on the English Crown, Courts of Vice-Admiralty were established in many, probably all the States; in some instances by charter reservation, in others by consent of the Crown, afterwards expressed. The limits of this jurisdiction were defined by commissions of the Crown and acts of Parliament, which were ample, and extended over maritime contracts, and torts and injuries in ports, as well as upon the high seas.\*

The Admiralty Courts in England exercised no jurisdiction in revenue laws; they belonged exclusively to the Exchequer; by statute of 12 Car. 2, known as the Navigation Act, and of 7 and 8 Will. III. c. 22, jurisdiction was extended to the Vice-Admiralty Courts in the American Colonies, to revenue cases, from which appeals lay to the Admiralty in England.†

Controversies between the Provinces, involving charter boundaries or rights, were brought before the Privy Council, whose jurisdiction upon such questions was original, on the

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\* Serg. Con. Law, p. 2. *De Sovio v. Bait*, 2 Gall. 470.

† Bro. Civ. and Ad. Law, ii. 491.

principles of feudal sovereignty.\* The King exercised a supervisory power, by way of appeal, over the decisions of the Colonial tribunals.† The author must refrain from a discussion of the points and principles of the law involved under the earlier Colonial jurisprudence. The inquisitive student will find the subject fully treated by reference to the authorities cited in the note at the bottom of this page, in addition to which he is referred to the case of *Gordon v. Lowther*, 2 Id. Ray, 1477; 1 Smith's Laws of Penna.; 1 Wheat., 19; 2 Chalm. Opin., 193; and the Opinion of Northy, Atty. Gen. Chalm. Opin., 187.

The commencement of the Revolution destroyed all judicial power of the Crown, as well as the existence of all the Colonial courts. From the commencement of the war, all sovereign authority with the approbation of the people, as well as from the necessity of the times, was exercised by Congress, relating either to peace or war. Besides directing all military operations, Congress emitted bills of credit, made treaties, sent and received foreign ministers, prescribed the objects of captures, and rules concerning prizes. In reference to the legality of the captures, much depends upon the law of nations. This law must be uniformly construed. This gave Congress a right to set and act as an appellate tri-  
bunal upon all cases of capture, supervising the de-  
cisions of the judges and juries of the country upon all such matters. 3 Dall., 80.

Congress, in 1775, authorized the capture of English vessels, at which time it was recommended to the Colonial legislatures to establish courts, or extend jurisdiction to such as existed, concerning captures; the trials to be by jury, but in all cases appeals to be allowed to Congress.

Appeals were made to Congress by petition, which was usually referred to a committee raised for the purpose, consisting of five members. Congress after-  
wards appointed a standing committee of five to  
hear and determine all appeals.‡ The resolutions of Congress were complied with by several of the States, though upon different scales of delegated power. In several instances the acts passed by the States gave rise to much animated and

\* Bl. Com. i. 231.

† 3 Belknap's Hist. of N. H., 296; App. No. x.; 345 App. xli.; Forsey v. Cunningham, N. Y., 1764, Pamph.

‡ 1 Jour. Cong.; Sergt. Con. Law; Hop's Rep.

Jan. 30,  
1777.

interesting debate, in reference to the respective authorities of Congress and the States. "In July, 1776, the Legislature of New Hampshire passed an act which allowed an appeal to Congress, or persons appointed by them, only when the vessels capturing were fitted out at the charge of the United Colonies; in other cases the appeal was to be to the supreme court of judicature of that State. A citizen of that State, acting under the commission of Congress, in a vessel owned by citizens of New Hampshire, captured a vessel as a prize on the high seas, in October, 1777. Being claimed by citizens of Massachusetts, a trial by jury took place in the New Hampshire Court Maritime, erected by the act of that State of July, 1776, and the jury found a verdict for the captors. The claimants prayed an appeal to Congress, but the court refused it, because it was contrary to the law of that State. The claimants then appealed to a supreme court and had a jury; there also a verdict was found for the captors. The claimants then prayed an appeal to Congress and petitioned Congress, who referred it to the Committee of Appeals, and that Committee decided in June, 1779, that they had jurisdiction. After the Confederation, the Court of Appeals revised the decrees passed by the courts of New Hampshire, and in the year 1795, the Supreme Court of the United States, on appeal from the Circuit Court of New Hampshire, carried into effect the former decree of the Court of Appeals."\*

In the year 1780 Congress, with a view to obviate the difficulties that might continue to arise in reference to appellate jurisdiction in maritime cases, similar to the case of *Penhallow v. Doane's Admrs.*, and other like cases, passed a law establishing a court for the trial of appeals from the courts of admiralty from the States, in cases of capture; consisting of three judges, with competent salaries, appointed by Congress, two of whom could form a court. The court had authority to appoint a registrar, the trials were to be in conformity to the principles of national law, and no jury was to be impaneled in reference to any issue that might arise. The court at first consisted of Wythe, Paca, and Hosmer; Wythe afterwards resigned, and Cyrus Griffin was elected in his place. They fixed Philadelphia as the first place of holding the court, being empowered to fix such times and places

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\* Sergeant's Con. Law; *Penhallow v. Doane's Admrs.*, 3 Dall., 80.

as they should think most conducive to the public good, being restricted from sitting further eastward than Hartford, in Connecticut, or southward beyond Williamsburg, in Virginia. The style of this court was the *Court of Appeals in Cases of Capture*. Oaths were prescribed for the judges and registrar. The time of entering appeals, requiring security, and all necessary laws for the organization of the court, and ordering the papers, in cases then pending before Congress, to be transferred to this court.

6 Journ.  
Cong., 156.

In February, 1786, Congress resolved that as the war had ended, and the business of this court in a great measure done away with, it should be broken up by discontinuing the salaries of the judges. In June of this year they were permitted to grant rehearings, with a *per diem* allowance. An interesting question, involving a controversy of great and vital importance, was originated at a period shortly succeeding the Declaration of Independence, in reference to the rights of soil and jurisdiction between the States. In 1779, Congress resolved that, it appearing from the representatives from Pennsylvania, that disputes having arisen between that State and Virginia relative to their boundaries, which might engender serious evils, that it would be better not to disturb the possession of any one living on this disputed soil, or grant any part of this land until the dispute could be amicably adjusted by the two States, or decided by Congress.

11 Journ.  
Cong., 123.

Disputes between New York, New Hampshire, and Massachusetts, and the people living in the present State of Vermont, which was known at that time as the New Hampshire Grants, were laid before Congress on the application of the parties interested; whereupon Congress passed a recommendation that each State should pass a law, authorizing Congress to hear and adjust the disputes relating to their boundaries, as was prescribed by the Articles of Confederation, which had then been agreed in Congress, but had not received the approbation of the States. New York and New Hampshire passed the necessary laws, placing the controversy before Congress, where it was heard and settled. In like manner was a controversy existing between Virginia and New Jersey adjudicated. This controversy was about a tract of land called *Indiana*, extending along the Ohio River. The proprietors of Indiana, in conjunction with the Legislature of New Jersey, referred the matter to Congress, which was heard



before a committee, who made a report in May, 1782, that the purchase of the Indiana Company was made *bona fide*.\*

The extent of the judicial system of the United States, narrowed and confined by the Ninth Article of the Confederation, may be succinctly stated under the following heads:—1st. Congress had the power of appointing courts for the trial of piracies and felonies committed on the high seas. 2d. Of establishing courts for determining appeals in all cases of capture: no member of Congress could be appointed a judge of any of said courts. 3d. The United States in Congress assembled was the last resort on appeal in all disputes and differences then existing, or that might arise, between two or more States, concerning boundary, jurisdiction, or any cause whatever; which authority was to be exercised by judges or commissioners appointed in the manner specified in the said Article; their judgment to be final; provided no State should be deprived of territory for the benefit of the Union. 4th. All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdictions, as they might respect such lands and the States which passed such grants, were adjusted; the said grants, or either of them, being at the same time claimed to have originated antecedent to such settlement of jurisdiction, were, on the petition of either party in Congress, to be finally determined as near as might be in the same manner as the foregoing. Such was the jurisdiction

Articles of  
Confed.,  
Art. 9.

of the Judiciary of the United States at this time. A brief allusion to a few adjudicated cases will present the best history of our then existing jurisprudence.

For example, by an act of the Legislature of Pennsylvania, it was ordered that a Court of Appeals be constituted “for reviewing, reconsidering, and correcting the definitive sentences and decrees of the Court of Admiralty of that State, other than cases of capture upon the water in time of war from the enemies of the United States.”

In a libel case in the State Court of Admiralty for Pennsylvania, to recover damages against a person for taking from the complainant an English vessel which had been captured by the defendant as a prize, the State Court of Admiralty decided in favor of the complainant, and decreed damages and costs. An appeal was taken to the State Court of Appeals,

\* Sergeant's Con. Law, p. 12; 5 Journ. Cong., 456; 7 do., 364; 9 do., 64.



where it was held,—1st. An appeal did not lie in the case to the *court established* by Congress, because the jurisdiction of the court in receiving and finally determining cases of capture was confined to such cases as when the prize was brought *infra præsidia* of the United States, which was not the case in this instance. 2. The *State Court of Appeals* had jurisdiction, because so intended to be given by the legislature, in appeals from the Admiralty in all cases in which an appeal was given to the United States Court.\* The exciting and important controversy between the States of Pennsylvania and Connecticut, which involved a right to the territory of Wyoming, was decided by a court of five commissioners, which was organized under the Articles of Confederation, and sat at Trenton in 1782. The States were represented by counsel, and testimony was heard on each side. The court, in the proper exercise of its jurisdiction upon the testimony and arguments, which were full and able, properly decided that Connecticut had no right to the lands in dispute; and that the jurisdiction, as well as pre-emption of all territory within the charter boundary of Pennsylvania, claimed by Connecticut, rightfully belonged to the former State.†

In the years 1786 and 1787, proceedings were likewise held for constituting courts to determine controversies existing between other States. Among others, there was a dispute between Massachusetts and New York, and South Carolina and Georgia, in reference to the boundaries and territory of the said States. These disputes were never finally acted upon by the court, as they were amicably adjusted by the States.‡

Before and after the ratification of the Articles of Confederation, Congress, in the full exercise of an appellate jurisdiction in all cases of capture, recognized and enforced the law of nations in relation to prize questions. In every other respect, Congress depended upon the State governments for the enforcement of such laws.

In 1779, Congress determined, and so informed the President and Supreme Executive Council of Pennsylvania, that such offences as it might determine to prosecute against individuals, involving a violation of the law of nations, should be

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\* Talbat v. Commanders, &c. of three brigs, 1 Dall., 95.

† Sergt. Con. Law, Int. p. 15; 8. Journ. Cong., 83.

‡ 12 Journ. Cong.

carried on at the expense of the United States. In the case of De Longchamps, who was tried and convicted in one of the courts of Pennsylvania, in the year 1784, for insulting M. Marbais, Secretary of the French Legation, on whom the defendant had committed an assault and battery, it was declared that the law of nations formed a part of the municipal law of the State.\* After De Longchamps had been arrested, the facts were communicated to Congress and their advice requested. The action of the court was approved by the Committee of States.† The progress of law, the definition of rights and remedies, as well as crimes, must necessarily be the work of time.

In the year 1788, several persons were convicted of treason in the State of Pennsylvania, under the law of Congress as it had been defined in 1776.‡

A correct idea may be formed of the narrow limits of our national jurisprudence from the fact that, generally speaking, Congress exercised no power to enforce obedience or punish offenders in office, without the assistance of the State laws. In 1782, Congress was compelled to call on the State legislatures to empower commissioners appointed by Congress to settle the accounts of the Military Department; to call for witnesses and examine them on oath in reference to the accounts. The State legislatures were likewise to pass resolutions to enable the United States to recover from citizens of different States debts due and effects belonging to the United States.§ In 1784, so tardy was State legislation upon this subject, that the Committee of States, in its session during the recess of Congress, complained of the tardiness of all the legislatures in withholding the relief asked for.||

The reader will perceive that under the Articles of Confederation every case of national or local bearing was decided by State jurisdiction, either directly or by special permission to Congress, except disputes arising between States, or prize cases or piracies.

It should be borne in mind that the State courts exercised no jurisdiction in cases arising from national imposts, as none existed before the present Constitution of the United States:

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\* *Respublica v. De Longchamps*, 1 Dall., iii.

† 9 Journ. Com. of States, 6.

‡ 1 Dall., xxxv. 39.

§ 4 Journ. Cong., 83, in 1778; 5 Journ. Cong., 296, in 1779; 7 Journ. Cong., 298, in 1782.

|| 9 Journ. of Cong. Com. of States, 29.

State imposts existed and were regulated exclusively by State tribunals. When the framers of the Constitution directed their attention to the Judiciary, they evidently remembered the great deficiency of this branch of government under the articles. They designed embracing what experience had shown to be necessary in preserving harmony among foreign nations, and what wisdom dictated to be necessary to secure obedience to the authorities intended to be vested in the different departments, as well as to protect and sustain the Government in its superintendence of the great political interest of the country.

The ninth resolution of Randolph, previously cited, relates to the establishment of a national judiciary. But little difficulty existed in arranging the principles of this feature of our Government. The judicial system of the United States forms a beautiful element in our national structure, the debates of which are now accessible to the general reader.

After the Convention had sat for a protracted period, to insure dispatch it adopted a resolution to appoint a committee of *detail*, whose duty it should be to report a constitution for the consideration of that body; this committee adopted and reported all the suggestions that had received the sanction of the Convention. On the 6th of August the report was received. A general outline of the Judiciary was reported along with the entire details of the Constitution.

The Convention made many alterations: in respect to the Judiciary it was adopted with very slight modifications.

The provisions of the Constitution are plain and simple, vesting the judicial power of the United States in one supreme court, and such inferior courts as Congress may from time to time ordain and establish. The jurisdiction of this court is settled by the Constitution, "to all cases in law or equity arising under this Constitution; the laws of the United States, and treaties made or which shall be made under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdictions; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State and citizens thereof, and foreign States, citizens, or subjects." The question, whether the Supreme

Court possessed common law jurisdiction, was very soon raised, and repeatedly argued, before it was finally settled.

Story, in his Commentaries, boldly takes the position that the expression "all cases in law and equity," plainly embraces cases at common law, as contradistinguished from cases in equity, according to the distinction in the English jurisprudence; which was the basis of the jurisprudence of the Colonies, and whose spirit was infused into the judicial branch of the Government of the United States.\* Reason and justice will allow no other conclusion than that the framers of the Constitution intended to give to our National Judiciary common law jurisdiction. If not, the sphere of this, the most elevated tribunal known to the world, would be limited to cases in equity, whilst those arising under the Constitution, and being *cases at law*, could not be decided by this court without some legislative enactment. The question is now settled that our Federal courts have common law jurisdiction.

The Supreme Court, in *Robinson v. Campbell*,† went far towards sustaining this doctrine.

The act of Congress, May 8, 1792, for regulating processes in the courts of the United States, established "that the forms of writs, executions, and other processes, except their style and form and modes of proceedings then used in suits at common law in the Federal courts, and declared that the modes of proceeding in suits in equity should be according to the principles and usages of courts of equity." All these forms were subject to such alterations as the court should deem expedient. The Federal court has decided that the remedies in this court were not to be according to the practice of State courts, "but according to the principles of *common law* and equity, as distinguished and defined in that country from which we derive our knowledge of those principles."‡

It is not my purpose to make extensive comments upon this feature of the National Constitution; this has been elegantly and learnedly executed by Kent and Story. I will, however, for the purpose of illustrating the jurisprudence of the United States in reference to the Constitution, examine those cases adjudicated by the Supreme Court, which illustrates the principles of our constitutional jurisprudence. The

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\* Story on the Con., 855.

† 3 Wheaton, 212.

‡ Kent's Com., i. 343, 5th ed.



eleventh amendment to the Constitution, which is in these words,—“The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, or by citizens or subjects of any foreign State,”—greatly curtailed the jurisdiction of the Supreme Court of the United States. Prior to the adoption of this amendment a suit might have been instituted in the Supreme Court against a State by the citizens of another State.\* This amendment was proposed at the first session of the Eighth Congress. The Supreme Court cannot maintain a suit, whether pending at the time or arising after the eleventh amendment was adopted, in which a State is sued by citizens of another State, or citizens or subjects of a foreign State.†

It has been decided that the right of a State to assert any interest it may have in any subject which may be in controversy is not affected by the eleventh amendment. A State, then, can proceed originally in the Supreme Court for the purpose of contesting a right of soil.‡

In the case of *Fletcher and Peek* § the question was raised, but not decided, whether a State might institute suit in the Supreme Court, to vacate a contract made in pursuance of a law passed by its legislature, in which fraud and corruption was supposed to exist, and was alleged against the members of the legislature.

The Supreme Court has jurisdiction to ascertain and define the boundaries between different States. Though the Constitution does not expressly extend the powers of the Judiciary to all cases arising between two or more States, yet it excludes none, whatever be their character or object.||

The original jurisdiction of the Supreme Court is limited by the Constitution to a comparatively small sphere. Its powers under the appellate jurisdiction which has been bestowed upon it are more amplified and extensive, though the *force* of its original jurisdiction is much greater. The Constitution prescribes the appellate jurisdiction of the Supreme Court, which, being more comprehensive than its original jurisdiction, has been more frequently exercised.

It extends to all cases in law and equity as far as the judicial power of the government extends, except those cases

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\* 2 Dall., 419. † 5 Cranch, 115. ‡ 3 Dall., 411. § 6 Cranch, 87.

|| 12 Peters, 657.



coming within its original jurisdiction, and "with such exceptions and under such regulations as Congress shall make." Had this court been merely created by law, without defining its jurisdiction, there could be no other standard by which its powers could be used but the Constitution. Its jurisdiction as an appellate court has been positively described by the Judiciary Act of 1798: it has been regulated by this act, which must be considered as prohibiting the exercise of any power not designated.\* In reference to the appellate jurisdiction of this court, it has been decided that unless Congress regulate its proceedings, it cannot be exercised, and such rules as Congress shall provide cannot be violated.†

The Constitution designed that the judicial power, original or appellate, should reach all cases in law or equity arising under the Constitution, laws, and treaties of the United States, and all cases affecting ambassadors or other public ministers and consuls. The Constitution contemplates in the Sixth Article that cases within the judicial cognizance of the United States courts would arise in the State courts, under their ordinary jurisdiction, which courts will incidentally take cognizance of cases arising under the laws and treaties of the United States. The judicial power of the United States extending to all such cases, it follows by the terms of the Constitution that the appellate power of the United States courts must extend to the State tribunals.‡

There are two classes of cases over which the United States courts extend their jurisdiction. In the first it depends on the character of the cause, whosoever be the parties, embracing all the cases in law or equity arising under the Constitution, treaties, and laws of the United States. In the second place it depends entirely on the character of the parties, embracing controversies between two or more States, between citizens of the same State claiming lands under grants from different States, and between a State and citizens thereof, and foreign States, citizens, or subjects.

Where the words of the Constitution confer only appellate jurisdiction, it is clear that original jurisdiction is denied; yet it has been decided by the Supreme Court, where the words admit appellate jurisdiction, the power to take cognizance of the suit originally does not necessarily negative the power to

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\* 1 Cranch, 212; 6 Cranch, 307. † 3 Dall., 321. ‡ 1 Wheaton, 304.

decide upon it on appeal, if it may originate in a different court.\*

In reference to the judicial power of the United States, as ordained by the Constitution, and vested in the Supreme and District courts, its general scope and authority has been at an early period appropriately discussed by Chief-Justice Jay.† Extending it to ten classes, the Chief-Justice in delivering his opinion, said:—

“1st. To all cases arising under this Constitution; because the meaning, construction, and operation of a compact ought always to be ascertained by all parties, not by authority derived from one of them.

“2d. To all cases arising under the laws of the United States; because as such laws, constitutionally made, are all obligatory on each State, the measure of obligation and obedience ought not to be decided and fixed by the party from whom they are due, but by a tribunal deriving authority from both parties.

“3d. To all cases arising under treaties made by either authority; because as treaties are compacts, made by and obligatory on the whole nation, their operation ought not to be affected or regulated by the local laws or courts of a part of the nation.

“4th. To all cases affecting ambassadors or other public ministers and consuls; because as these are officers of foreign nations, cases affecting them ought only to be cognizable by national authority.

“5th. To all cases of admiralty or maritime jurisdiction; because as the seas are the joint property of nations, whose rights and privileges relative thereto are regulated by the law of nations and treaties, such cases necessarily belong to national jurisdiction.

“6th. To controversies to which the United States shall be a party; because in cases in which the whole people are interested, it would not be just or wise to let any one State decide and measure out the justice due to others.

“7th. To controversies between two or more States; because domestic tranquillity requires that the grounds of contention among the States should be settled by a common judiciary, and in a free country justice ought not to depend on the will of either litigants.

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\* 6 Wheaton, 264.

† *Chisholm v. State of Georgia*, 2 Dall., 475.

"8th. To controversies between a State and citizens of another State; because in case a State (that is all the citizens of it) has demands against some citizens of another State, it is better that the State should prosecute its demands in a national court than in a court of a State to which those citizens belong, the danger of irritation and crimination arising from apprehension and suspicions of partiality being thereby obviated; because in cases where some citizens of one State have demands against all the citizens of another State, the cause of liberty and the rights of man forbid that the latter should be the sole judges of the justice due the former, and true republican government requires that free and equal citizens should have free, fair, and equal justice.

"9th. To controversies between citizens of the same State claiming lands under grants of different States; because as the rights of the two States to grant the land are drawn into question, neither of the two States ought to decide the controversy.

"10th. To controversies between a State or citizens thereof, and foreign States, citizens, or subjects; because as every nation is responsible for the conduct of its citizens towards other nations, all questions touching the justice due foreign nations or people ought to be ascertained by, and depend on, national authority."

A most interesting and important branch of our civil jurisprudence, known as the "Conflict of Laws," necessarily presents a more conspicuous feature in the administration of the law under our Constitution than that of any other country; consisting, as does this Union of more than thirty free, sovereign, and independent States, each with a separate and distinct form of government, each with laws adjusted to the taste, interest, and temperament of its own people, yet endowed, enlivened, and sustained with a unity of government and a force of action not only as a Federal head, but as a source of national power and grandeur, from which flows and is regulated the supreme law of the land.

The Federal Government with its own courts and laws, the State governments with their courts and laws, designed to move in one harmonious system, yet distinct spheres, have given rise to more elegant and learned jurisprudence than exist in any other country. Its importance and elegance have received from the pen of our own learned and distinguished Judge Story its highest polish and most accurate learning.

When the work of the Convention was finished, the Constitution was sent to the different States to be submitted to each one for its ratification or rejection. Accompanying the Constitution, when sent to Congress, there to receive its proper direction before any action could be had by the States, the Convention likewise transmitted a letter, from which the following is an extract.\* Alluding to the Constitution, it says:—"In all our deliberations on this subject we have kept steadily in our view that which appeared to us the greatest interest of every American, the consolidation of our union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration seriously and deeply impressed on our minds, led each State to be less rigid in points of inferior magnitude than might have been otherwise expected, and thus the Constitution which we now present is the result of a spirit of amity and that mutual deference and concession which the peculiarity of our situation rendered indispensable." It is apparent—and no one doubts it—that in projecting this scheme of government conflicting interests arose on every side, and that the result of the work of its framers was in a spirit of concession. This should always be the spirit of those who live under it. Thus was it ratified, thus has it been sustained to the present time, thus must it be perpetuated. The very circumstances by which we are surrounded, and which will continue to surround us, call loudly for an enlargement of this principle as the interest of this Confederacy enlarges and the elements of conflict increase.

Congress, upon the receipt of the report of the Convention containing the Constitution, resolved unanimously, "That the said report, with the resolutions and letter accompanying the same, be transmitted to the several legislatures, in order to be submitted to a convention of delegates chosen in each State by the people thereof in conformity to the resolves of the Convention made and provided in that case."†

The States, in obedience to the above resolution, passed acts calling conventions, and the Constitution was submitted severally to the conventions thus called, the ratification being then transmitted to Congress. The debates in the different State conventions were protracted and excited. The follow-

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\* Elliott's Debates, vol. iii. p. 195.

† Journ. Cong. of Confederation.



ing resolutions will justify an insertion in this chapter. They form an inseparable part of the history of the Constitution coeval with its adoption: they reflect the sentiments and understanding of its framers, and will have a strong tendency to show in its true light and full bearing the relative position, power, and sphere of the General and State governments. The reader will see that our National Government,—though immense, grand, and powerful in its structure, embracing every element and feature of efficiency,—is nevertheless based upon the free and independent sovereignty of the States, whose right cannot be infringed or invaded without the exercise of powers beyond the prescribed constitutional limits of the one and endangering the existence of the other.

When the Constitution was submitted to the different States for their respective and individual ratification, certain resolutions, which are in part now presented, passed the different State conventions having the ratification of the Constitution under consideration. Each State passed acts calling a convention, and as they ratified or refused, transmitted the proceedings to Congress, as follows:—\*

1st. *Delaware* said.—“We, the deputies of the people of Delaware State, in Convention met, having taken into consideration the Federal Constitution, proposed and agreed upon by the Deputies of the United States in a general convention, held in the city of Philadelphia on the 17th of September, in the year 1787, have approved, assented to, ratified, and confirmed, and by these presents do, in virtue of the power and authority to us given for that purpose for and in behalf of ourselves and our constituents, fully, freely, and entirely approve of, assent to, ratify, and confirm the said Constitution.”

2d. *Pennsylvania*.—In the name of the people of Pennsylvania. “Be it known unto all men, that we, the delegates of the people of the *Commonwealth of Pennsylvania*, in General Convention assembled, have assented to and ratified, and by these presents do, in the name and by the authority of the *same people* and for ourselves, assent to and ratify the foregoing Constitution.”

3d. *New Jersey*.—“Now be it known, that we, the delegates

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\* The debates and resolutions of the State conventions upon the ratification of the Constitution will be found reported in full in Elliott's Debates, a very rare work.



of the State of New Jersey, chosen by the people thereof for the purpose aforesaid, (the ratification of the Constitution,) having maturely deliberated on and considered the aforesaid proposed Constitution, do hereby for and on behalf of the people of the State of New Jersey, agree to ratify and confirm the same and every part thereof."

4th. *Connecticut*.—In the name of the people of the State of Connecticut. "Have assented to and ratified, and by these presents do assent to, ratify, and adopt the Constitution reported by the Convention."

5th. *Massachusetts*.—"The Convention having impartially discussed and fully considered the Constitution for the United States of America, reported to Congress by the Convention of Delegates from the United States of America, and submitted to us by a resolution of the General Court of the said Commonwealth, passed on the 25th day of October last past, and acknowledging with grateful hearts the goodness of the Supreme Ruler of the Universe in affording the people of the United States, in the course of providence, an opportunity deliberately and peaceably, without fraud or surprise, of entering into an explicit and solemn compact with each other, by assenting to and ratifying a new Constitution, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and their posterity; do, in the name and in behalf of the people of the Commonwealth of Massachusetts, assent to and ratify the said Constitution for the United States of America."

This State recommended nine amendments to the Constitution. The first, which was the most important, was,—“That it explicitly declared that all powers not expressly delegated to Congress by the aforesaid Constitution are reserved to the several States to be by them exercised.” The third was,—That Congress do not exercise the powers granted by Section 4 Article 1, except in cases of the refusal of a State to make the regulations therein mentioned, “or shall make regulations subversive to the rights of the people to a free and equal representation in Congress agreeably to the Constitution.”

6th. *Georgia*.—"Now know ye, that we, the delegates of the people of the State of Georgia, in convention met, pursuant to the resolutions of the legislature aforesaid, having taken into our serious consideration the said Constitution,

have assented to, ratified, and adopted, and by these presents do, in virtue of the powers and authority to us given by the people of the said State for that purpose, for and in behalf of ourselves and our constituents, fully and entirely assent to, ratify, and adopt the said Constitution."

7th. *Maryland*.—"We, the legislature of the people of the State of Maryland, having fully considered the Constitution of the United States of America, reported to Congress by the Convention of Deputies from the United States of America, held in Philadelphia on the 17th day of September, in the year 1787, of which the annexed is a copy, and submitted to us by a resolution of the General Assembly of Maryland, in the November session, 1787, do, for ourselves and in the name and behalf of the people of this State, assent to and ratify the said Constitution."

8th. *South Carolina*.—"The Convention having maturely considered the Constitution or form of government reported to Congress by the Convention of Delegates from the United States of America, and submitted to them by a resolution of the legislature of this State, passed on the 17th and 18th days of February last, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and their posterity, do, in the name and behalf of the people of this State, hereby assent to and ratify the said Constitution." South Carolina further said,— "And whereas, it is essential to the preservation of the rights reserved to the several States, and the freedom of the people under the operations of a general government, that the right of prescribing the manner, time, and places of holding elections to the Federal legislature should be forever inseparably annexed to the sovereignty of the several States, this Convention doth declare that the same ought to remain to all posterity a perpetual and fundamental right in the local, exclusive of the interference of the General Government, except in cases where the legislature of the States shall refuse or neglect to perform and fulfill the same according to the tenor of said Constitution."

9th. *New Hampshire*.—In convention of the delegates of the people of the State of New Hampshire, June 21, 1788. "The Convention having impartially discussed and fully considered the Constitution for the United States of America, reported to Congress by the Convention of Delegates from the

United States of America, and submitted to us by a resolution of the General Court of the said State, passed the 14th day of December last past, and acknowledging with grateful hearts the goodness of the Supreme Ruler of the Universe, in affording the people of the United States, in the course of his providence, an opportunity deliberately and peaceably, without fraud or surprise, of entering into an explicit and solemn compact with each other, by assenting to and ratifying a new Constitution, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and their posterity, do, in the name and behalf of the people of the State of New Hampshire, assent to and ratify the said Constitution for the United States of America."

New Hampshire made the following recommendations before it was incorporated in the Constitution by amendment, as did other States:—"That it be explicitly declared that all powers not expressly delegated by the aforesaid Constitution are reserved to the States to be by them exercised."

10th. *Virginia*.—"Do, in the name and in behalf of the people of Virginia, declare and make known, that the powers granted under the Constitution being derived from the people of the United States, be resumed by them whensoever the same shall be perverted to their injury or oppression; and that every power *not granted thereby remains with them and at their will*; that, therefore, no right of any denomination can be canceled, abridged, restrained, or modified by Congress, by the Senate or House of Representatives, acting in any capacity, by the President, or any department or officer of the United States, except in those instances in which power is given by the Constitution for those purposes; and that among other essential rights the liberty of conscience and of the press cannot be canceled, abridged, restrained, or modified by any authority of the United States."

11th. *New York* made many recommendations and declarations. Among others, she says,—"That the power of the government may be reassumed by the people whensoever it shall become necessary to their happiness; that every power, jurisdiction, and right, which is not by the said Constitution clearly delegated to the Congress of the United States, or the departments of the government thereof, remains to the people of the several States or to their respective State governments,

to whom they may have granted the same; and that those clauses in the said Constitution which declare that Congress shall not have or exercise certain powers, do not imply that Congress is entitled to any powers not given by the said Constitution, but such clauses are to be construed either as exceptions to certain specified powers, or as inserted merely for greater caution."

Mr. Lansing, a member of the New York Convention, made a motion that, in the ratification of the Constitution, there should be reserved to New York a right to withdraw herself from the Union after a certain number of years, unless the amendments proposed should be previously submitted to a general convention. This motion was negatived by a decided vote against it.

12th. *North Carolina* prefixed a bill of rights and a series of amendments, with the resolution,—“That a declaration of rights asserting and securing from encroachment the great principles of civil and religious liberty, and the unalienable rights of the people, together with amendments to the most ambiguous and exceptionable parts of the said Constitution of government, ought to be laid before Congress, and the convention of the States that shall or may be called for the purpose of amending the said Constitution, for their consideration previous to the ratification aforesaid on the part of North Carolina.”

The Convention neither ratified nor rejected the Constitution, but passed by a large majority a resolution recommending to the legislature of the State, whenever Congress passed a law for collecting an impost in the States that ratified, (ten having ratified,) that this State enact a law for collecting a similar impost on goods imported into that State, and appropriate the money arising therefrom to the use of Congress.\*

*Vermont*, in her act of ratification said,—“This Convention having impartially deliberated upon the Constitution of the United States of America, as now established, submitted to us by an act of the General Assembly of the State of Vermont, passed October 27, 1790, do, in virtue of the power and authority to us given for that purpose, fully and entirely approve of, assent to, and ratify the said Constitution; and declare that immediately from and after this State shall be admitted by the Congress into the Union, and to a full parti-

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\* Elliott's Debates, vol. iv. p. 219.



icipation of the benefit of the government now enjoyed by the States in the Union, the same shall be binding on us and the people of the State of Vermont forever.”\*

When the ratification of New Hampshire was received by Congress, it being the ninth State, Congress passed a resolution that the ratifications of the Constitution of the United States be referred to a committee to examine the same, and report an act for carrying the Constitution into operation. July 2,  
1788.

This committee reported an act which, after the Constitution received its ratification, provided the first Wednesday in January ensuing for appointing electors in the several States for the election of President;† that they assemble on the first Wednesday in February to vote for President. Nothing was said about the Vice-President. July 14,  
1788.  
  
1789.

North Carolina afterwards ratified the Constitution and came into the Union. Nov. 1789.

Rhode Island ratified, declaring, among other general principles, “that the powers of the government may be resumed by the people when necessary to their happiness; and that all rights not delegated to Congress by this instrument (the Constitution of the United States,) remain to the people of the several States or their State governments;” at the same time requesting an amendment to this effect. May 29,  
1790.

NOTE.—It is a singular and interesting point in the political history of the States, which, though bearing no connection with the present history, may yet be introduced in this place, that after the adoption of the Federal Constitution most of the States remodeled their constitutions, and in every instance almost they established, as far as property qualification is concerned, unlimited right of suffrage; whilst at this day many look upon it as a fearful encroachment upon vested rights, and there is no doubt but it is an innovation upon the true representative principle, and liable to great and dangerous tendencies, yet it bears the sanction of the earliest fathers of the Republic, and is coeval with the Revolution itself, being even prior, in reference to Virginia.

Virginia twice exercised an unlimited right of suffrage, and twice she turned from it, before adopting it for the third time in 1851.

In Georgia, under her constitution adopted in 1789, the right to vote was extended to all tax-paying resident freemen.

In 1790, South Carolina adopted a new constitution; the right of suffrage was only restricted to tax-paying citizens: subsequently this requisite was abolished.

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\* Ver. State Papers, p. 194.

† Journ Cong. of Confederation.



The same year Pennsylvania adopted a new constitution, without any limitation, except two years' residence, and paying a tax.

The constitution under which Vermont came into the Union, adopted in 1777 and slightly altered in 1785, recognized universal suffrage to every man twenty-one years old, and of quiet and peaceable behavior, after one year's residence.

In 1792, Kentucky adopted a constitution with a similar provision. George Nicholas, formerly of Virginia, was one of the ruling spirits of Kentucky at this time.

In 1796, Tennessee adopted her constitution, allowing every freemen to vote.

In most of the States an alteration took place at different times elevating the standard of the elective franchise, especially in reference to the term freemen, which was formed to embrace even emancipated slaves. In some of the free States free negroes vote, but it requires a higher property qualification than in the same State is required for white men.

## CHAPTER III.

## THE ADMINISTRATION OF GEORGE WASHINGTON.

AMIDST the primeval forest of America the wild savage had roamed, the loud ocean had washed its shores, the bright and genial sun had poured its lustre over the land, which, watered by the showers of heaven, had offered its abundance on every hand. European art and learning had softened and subdued the plenteous board of nature to the want of civilization; yet the far-sighted statesmen, the profoundest philosopher, had not pictured to the mind the mighty empire that slumbered on the wilds of North America; an empire unlike any the world had seen, where freedom in its untrammelled splendor would inspire man with the dignity of his birth, and sever forever the manacles that bound him to tyrants and despots. Here a new sun had risen in the political firmament, and though just bursting into view and dispelling the clouds that had so long clustered over the moral pathway of mankind, yet as it arose, as from a sea of darkness, millions caught its first cheering rays as the harbinger of a brighter and better day; and if the meridian was afar off, the morning of hope had dawned when the Constitution of the United States rose triumphant from the ruin of England's broken sceptre and shattered crown.

Upon the adoption of the Constitution, which was to go into operation when nine States should give their approval, the most important consideration was choosing a President.\* Every friend of the new Constitution looked with intense desire to George Washington, as one whose brilliant career, exalted position, mature wisdom, sorely-tried and unflinching integrity, would not only allay opposition to the Constitution, but reflect credit and honor upon the infant Republic, and stamp it in its tender years with the dignity of his own character.

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\* New Hampshire formed the ninth State, consenting June 21, 1788.

On what other man could the mantle of the Revolution have fallen? Where else could a well-directed choice have rested whilst Washington lived? On the first Wednesday in February, 1789, the first Presidential Electors were chosen. On the first Wednesday in March of the same year, they assembled to vote for President and Vice-President of the United States. Washington received sixty-nine electoral votes for President, which made his election unanimous; John Adams received thirty-four electoral votes for Vice-President; the remaining votes were scattered among several other distinguished gentlemen. Adams was duly elected Vice-President.

Prior to the amendment of the Constitution the Electoral College voted for two persons or more; the one obtaining the highest vote was elected President; the one obtaining the next highest, Vice-President. The election of Washington was made known to him officially at his country residence,—Mount Vernon,—where the hero of a Revolution was taking his rest, after the din of battle had rolled away, beside his own loved Potomac. Charles Thompson bore the message to Washington, which summoned him again from the sweet domestic retirement he loved and courted. The certificate of the Secretary of the Senate was presented to him, the votes having been counted before both Houses of Congress on the 6th of the same month.

April 14,  
1789.

Here is presented a beautiful scene for the eye of speculative philosophy; here its votary may trace the three periods that distinctly mark in lineament and feature the stages of the Government of the present United States; here he may see spread upon the historic canvas the crippled and infant efforts of the *Continental Congress*, and watch its growing strength as it struggles against oppression. He may look with gladdened eye as the picture brightens; he finds accumulated strength and strengthened hope as it emerges a *Congress* under the *Articles of Confederation*, which linking and binding the States with one cord in a common cause, he sees the sceptre tremble, and the waves of adversity, though rolling high, gradually, even in their wrath, passing away. How brightens the picture as the waves still continue to subside, and the Articles of Confederation, peering above the storm like the unscathed cliff, clear, bright, and almost spotless, are transformed into the *Constitution of the United States*, as it moves "sole and self-poised," like the sun in the firmament;

whilst its gravitating principle is the affection and orderly and brotherly love of the millions of Americans it has made and will continue to make free and happy men!

On the second day after Washington was informed of his election, he started for New York; leaving his family at Mount Vernon, he took leave of his affectionate companion, who so often had mingled her prayers with his toils and troubles, and the cheering smile of admiration with his noblest success. A short time before he left Mount Vernon for New York, he had visited his devoted and aged mother at Fredericksburg, Virginia, for the last time; she died on the 25th of August following his election; and now the earth covers the mortal remains of this truly pious woman. Upon the tomb is seen as the best eulogy, "*Mary, the mother of Washington.*" Mary did not see Washington after his election; yet she must have felt the withering grasp of age momentarily relaxed by this renewed manifestation of the appreciation of that character her own noble virtue had nursed and trained, alike for the highest service of his country and his God.

The strongest evidence of esteem was manifested, from Alexandria to New York, as the President elect pursued his way. He reached New York on the 23d of April. He was inaugurated on the 30th. On this day commenced the first administration of the government under the newly-adopted Constitution.

Higher and heavier responsibility rested upon the initiatory efforts of this administration than upon any succeeding period. The Constitution was an experiment, the machinery of Government new and incomplete; many and varied difficulties were calculated to retard and embarrass its operation. The expenses of the Government were to be regularly discharged; a heavy debt of nearly \$80,000,000 rested on the restricted resources of the Republic; a destitute army awaited the action of Congress for the support of themselves and families; discontent disturbed the minds of some, distrust was lingering on the lips of others. These and other difficulties were to be adjusted by that Administration, which, being the first, would be looked to by its successors as an example and a light to the intricacies of government. In addition to these difficulties, the administration of Washington encountered on its very threshold a strong political resistance, which led to the first formation of parties under our Constitution, as will be more particularly noticed hereafter. At no period of our existence



can it be said we were free from the influence of party difference and distinctions; party, with its partialities, its aversions, its adherence or rejection of measures and systems necessarily existing, as well as coexistent with the formation of human institutions, developed itself among the people of the Colonies, and gradually expanded its feelings and prejudices over the entire land. Before the Revolution, during its continuance, and upon its immediate close, great discord existed among the people, arising from individual embarrassment. A difference of opinion, a difference of policy as well as principle, at once arose in reference to the delivery of the people from embarrassment and impending ruin. One contended for an exact and scrupulous fidelity to public and private engagements; individual embarrassment, they thought, was to be alleviated by a high and honorable maintenance of character, industry, and prudence, not by the relaxation of the law, and the consequent impairment of moral principle as well as contract. The other party advocated and delineated a more indulgent course, manifesting a sympathy for the debtor class which tended strongly to the interruption of the enforcement of claims and collection of debts. "To exact a faithful compliance," says Chief-Justice Marshall, "with contracts, was, in their opinion, a harsh measure which the people would not bear. They were uniformly in favor of relaxing the administration of justice, of affording facilities for the payment of debts, or of suspending their collection and remitting the taxes."\*

In many of the States the latter formed the most numerous party, which resulted in an opposition on their part and a resistance of the transfer of the powers of Government, necessary for the control of these measures, from the hands of the people and the immediate government of the States, to the hands of Congress; and the "emission of paper money, the delay of legal proceedings, and the suspension of the collection of taxes, were the fruits of their rule whenever they were completely predominant."†

This party struggle became more violent for several years, as it was periodically renewed; its animation increased, because in the *State governments* no restraint existed to check this wild and radical principle, whilst the uncertainty of these great and important measures produced distrust in the Government, and an instability in the principles upon which it was

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\* Marshall, vol. ii. p. 103, 2d ed., 1850.

† Ibid., p. 103.

designed to stand; which "produced a long train of ills, and is seriously believed to have been among the operating causes of those pecuniary embarrassments which, at the time, were so general as to influence the legislation of almost every State in the Union. Its direct consequence was the loss of confidence in the Government, and individuals."\* "In private transactions," says the author just quoted, "an astonishing degree of distrust prevailed. The bonds of men whose ability to pay their debts was unquestionable, could not be negotiated but at a discount of *thirty, forty, and fifty per centum*; real property was scarcely vendible, and sales of any article for ready money could be made only at a ruinous loss."

The measures of the Administration were denominated Federal; but though odium ultimately fastened itself upon the declining moments of the Federal party, it will be seen that the measures of this party and the principles it inculcated, were sound and pure, as were the illustrious names with which it stands in its origin identified.

Those who opposed the Administration were called anti-Federalists. John Adams and Hamilton remained steadfast friends of the Administration. The opposition numbered some of the ablest and most influential men of that period; among whom, Madison, Langdon, Williams, and Baldwin may be proudly mentioned.

The earliest step on the part of the legislative department of the Government was its organization. The Vice-President was *ex-officio* President of the Senate. Frederick A. Muhlenburg, of Pennsylvania, was elected the first Speaker of the House of Representatives. Upon the delivery of the inaugural address, the earliest efforts were directed to the adoption of the rules and regulations for the government of Congress.

After the adoption of the *parliamentary law*,<sup>1789.</sup> Congress passed a law creating the offices of the executive departments. At first there existed only three; at the head of each there was to be a secretary.† The Department of State included our domestic as well as foreign interests, though it was at first thought (so large a portion of our domestic affairs being governed by the regulation of the States in their sovereign capacity) that a separate department for the latter interest was unnecessary. The requisite preliminary steps being taken to effect the organization of the

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\* Marshall, p. 104.

† Sparks's Life of Washington, 416.

Government, it became necessary that Washington should proceed to make appointments of the cabinet officers. This duty devolved a delicate and responsible task upon the President. The members of the cabinet were to be his legal advisers, upon whose opinions he was expected to place a just and reasonable confidence; who, if persons of high moral and mental qualifications, had the right to expect the confidence of one who had called them around him, in part for the purpose of advice and consultation. Upon the character of the selections made, in many respects, would be the cast and type of the Administration. Washington had ample means of judging; his time was not limited. In calmly surveying the field, he saw that long experience and high talent pointed to Thomas Jefferson as among the most suitable to fill the Department of State. He was on the eve of departure from France, where, as the successor of Dr. Franklin, he had acted as minister, to the eminent satisfaction of his country and well merited honor to himself: he was better acquainted with the State and diplomatic interest of the country than any one else. The Treasury Department was filled by Alexander Hamilton, whose transcendent ability, purity, and firmness, had made him the friend of Washington, and among the most efficient supporters of our revolutionary struggle, as he was of the Administration of one, to whom he gave the light of his genius, his knowledge, and the force of his character.

Hamilton had opposed many features that were ingrafted on the Constitution; yet upon its adoption, with a patriotic magnanimity that ever distinguished his course, he surrendered his predilections and gave his hearty support to the Constitution, not only in debate, but by the pen, as is attested by the strong, sincere, and eloquent numbers of the "*Federalist*," which bear his name and the impress of his genius.

Under the Articles of Confederation, Henry Knox had acted as Secretary of War. He had distinguished himself as an officer in the army, and won high influence from an unblemished moral character. He proved an efficient cabinet officer, esteemed by Washington, and appreciated by the community for his public service. The post of Attorney-General was filled by Edmund Randolph, who had attained the highest eminence in his profession, occupied the gubernatorial chair of Virginia, and represented his State in the Convention that framed the Constitution of the United States, as well as the Convention of Virginia that ratified the same Consti-

tution. In the Convention that framed the Constitution of the United States, Randolph had taken a position that placed him among the most distinguished members of that body, and acquired fresh fame as a sound debater and wise man. Thus was filled the cabinet offices of the beginning of the administration of our Government under the Constitution of the United States.

The Judiciary of the United States has been alluded to in another part of this work. Washington's mind was alive to its importance. "Impressed," said he, "with a conviction that the administration of justice is the firmest pillar of good government, I have considered the first arrangement of the judicial department as essential to the happiness of the country, and the stability of its political system." From its first organization to the present day, this august tribunal has exercised an exalted influence. The interest of the country, its hopes, its safety, have often rested upon the integrity, wisdom, and firmness of the chief-justice and associate justices of this court. It has always received the confidence and admiration of the people; their hopes and expectations have always been realized, and justice has always rested secure from the influence of the demagogue, the chicanery of the political trickster, or the more imposing as well as insinuating address of wealth. Here learning, ennobled by wisdom, tempered by purity, supported by firmness, has held undisputed dominion and dispensed even-handed justice, whether a sovereign State in its grandeur and dignity, or the humble and helpless citizen trusting alone to the honesty of his cause, were contestants at its forum. Upon the organization of the court, the appointment of chief-justice was conferred upon John Jay. No man existed more suitable for this office; educated at the bar, brought up amidst the excitement of the Revolution, he was deeply imbued with the spirit and constitutional system under which our institutions had their being: to profound and judicial learning and great capacity, he united an unstained integrity and unfaltering firmness.

Congress, at the first session, proposed to the legislatures of the different States, twelve *amendments* <sup>1789.</sup> to the Constitution, ten of which were adopted,—viz. the first ten as written in the amendments to the Constitution.

The ratification of the amendments by the States were as follows:—New Hampshire, all except the Second Article; New York, ditto; Pennsylvania agreed to the 3d, 4th, 5th, 6th, 7th,



8th, 9th, 10th, 11th, 12th; Delaware, all except the First Article; Maryland, all; South Carolina, ditto; North Carolina, ditto; Rhode Island and Providence Plantations, ditto; New Jersey, all except the second; Virginia, all. No returns from Massachusetts, Connecticut, Georgia, Kentucky. The Eleventh Article of the amendments was proposed at the first session of the Third Congress.\* The Twelfth Article was proposed at the first session of the Eighth Congress.†

In reference to Article the 10th, amendments to the Constitution, which says "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," the received and accurate learning appears to be, that the powers granted to Congress are not exclusive of similar powers existing in the States, unless where the Constitution has expressly in terms given an exclusive power to Congress, or the exercise of a like power is prohibited to the States, or there is a direct repugnancy or incompatibility in the exercise of it by the States. An example of the first class is found in the exclusive legislation delegated to Congress over places purchased by consent of the legislature of the State in which the same shall be, for forts, arsenals, &c. Of the second class, the prohibition of a State to coin money or emit bills of credit. Of the third class, the power to establish a uniform rule of naturalization, and the delegation of admiralty and maritime jurisdiction. In all other classes of cases the States retain concurrent authority with Congress. In cases of concurrent authority, where the laws of the Union and of a State are in conflict, those of the Union being the supreme law of the land, are of paramount authority.‡

The Constitution, in creating the Executive Department, had made it the duty of the President to recommend to Congress such measures as he might deem expedient. Washington's Inaugural Address had been received with unbounded applause from one end of the land to the other.

1790.

Congress had assembled again. The features of Washington's administration were to be developed; the country was quiet; its citizens happy in present comforts and the buoyancy of hope. Yet to the statesman's eye difficulties presented themselves, nor could experience or philoso-

\* See Con. Art. III., Sec. 2, clause 1. † Ibid., Art. II., Sec. 1, clause 3.

‡ *Houston v. Moore*, 5 Wheaton, 1, 12, 49.

phy tell how long a cloudless sky would shed its beams upon the young Republic. Liberty had been won and proclaimed; the citizens of the Republic were free and untrammelled in their sentiments and convictions; free to act as they pleased, save the moral restraint of the enlightened law and public opinion of the age. No orders from the throne trammelled their thoughts or oppressed their industry or energy; no heavy pecuniary requisitions ground them to the dust: but the representative feature of the Government gave to the citizen a protective guard and controlling influence.

Washington wished to anticipate the wants of the country and unfold the system of his administration.

On the 8th of January he announced his first <sup>1790.</sup> Message to Congress, which was received with pleasure and admiration by Congress, as well as an anxious community. America looked with the most intense interest to the development of Washington's system of administration; Europe with curiosity and fear; for America, poised as she had been and might then be in the scale of chance, had already thrown a flood of light and truth upon the dark and cloud-stricken governments of Europe, well calculated to alarm her monarchs and make the firmest throne vibrate to its centre.

Washington's first Message, though brief, was a sensible and comprehensive paper. There was but little detail, and the measures he recommended were such as necessarily formed the basis of a wise and practical administration, modeled by his own genius to suit the exigencies of a new Republic and explore an untried field of government. He urges provision for the common defence of the country; measures for facilitating intercourse with foreign nations by means of embassies; the adoption of a uniform rule of naturalization; uniformity in currency, weights, and measures of the United States; patent-right laws; *the protection of common agriculture and manufactures*, with other recommendations of a practical nature.

This was the second session of Congress, to which was sent some of those masterly reports of Hamilton, which developed the high national policy that distinguished the administration of Washington for practical sense and usefulness; and which has, in many respects, been followed by succeeding administrations. Hamilton recommended the *funding* of the debt incurred by the Revolution; the assumption by the General

Government of the State debts; a plan for raising revenue from foreign goods, and a national bank.

These were the chief recommendations of the Secretary of State. They were approved by Congress and received the approbation of Washington. The national bank was not incorporated until the next session.

It was estimated by the Secretary of State that the public debt amounted to seventy millions of dollars; the expenses of the Government were estimated at three and a half millions; the proceeds from impost and tonnage were but two millions one hundred and seventy thousand. It was clearly seen at this early day that measures must be adopted to extricate the Government from its heavy indebtedness; four-fifths of the State debts had been assumed, whilst the annual expenses of the Government exceeded the receipts. At this session of Congress the States of Vermont and Kentucky were admitted into the Union.

It is not only interesting, but highly instructive, to observe the character of the debates upon constitutional questions about this period, involving deeply the interest of the country and establishing principles to be interwoven with the future history of the Constitution. Many members of this and a few succeeding sessions of Congress, had served in the Convention that framed the Constitution, and their opinions are ever to be cherished as exponents of the true reading of that instrument.

As early as May 15, 1789, a bill had been introduced into the House of Representatives, laying duties on goods. It was a revenue measure, and the first tariff that passed Congress; the duties that were moderate were chiefly specific, though a few were to be estimated *ad valorem*. It cannot be denied that some of the distinguished men who participated in this debate had an eye to the protection of our manufactures, though opposed to the monstrous system of monopoly which after years proved came so nearly being fastened upon the country.

Madison moved to lay an impost of eight cents on all beer imported; he did not think it would be a monopoly, but hoped it would be such an encouragement as to induce the manufacture to take deep root in every State in the Union. He thought that the States most advanced in population and ripe for manufactures ought to have their interest attended to in some degree. There may be some manufactures, he con-

tinued, which, being once formed, can advance towards perfection without any adventitious aid; while others, for want of the fostering hand of Government, will be unable to go on at all, and legislative attention will therefore be necessary to collect the proper objects for this purpose.

Clymer advocated a tariff for revenue and the encouragement of manufactures.

Carroll advocated but moderate protection.

Wadsworth said by moderating the duties we shall obtain revenue, and give that encouragement to manufactures which is intended.

Fisher Ames was in favor of only a moderate protection.

Fitzsimmons was willing to allow a small duty, because it conformed to the policy of the States who thought it proper in this manner to protect their manufactures.

Hartly, White, Bland, of Virginia, Boudinot, Sinnickson, and Lawrence were in favor of very moderate protection.

Smith, of South Carolina, said that the people of his State were willing to make sacrifices to the manufacturing and maritime interest of their sister States.\*

In the House of Representatives, June the 16th, 1789, on a bill establishing an executive department to be denominated the Department of Foreign Affairs, the first clause, after recapitulating the title of the officer and his duties, had these words,—“to be removable from office by the President of the United States.” This gave rise at once to a very learned and animated debate upon the President’s power of removal under the Constitution.

Bland and White, of Virginia, Gerry, Huntington, Livermore, and Jackson were opposed to the power of removal being vested in the President alone.

It was contended by Gerry, who appears to have been the most prominent, and by far the ablest debater on this side of the question, who said, “That some gentlemen considered this as a question of policy, but to him it appeared a question of constitutionality. It had been argued that if the power of removal rests in the President alone, it annuls or renders nugatory the clause in the Constitution which directs the concurrence of the Senate in the case of appointment; it behooves us not to adopt principles subversive of those esta-

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\* Elliott’s Debates, vol. iv. p. 329; Lloyd’s Debates of Congress, vol. i. p. 65.



blished by the Constitution. It has been frequently asserted on former occasions that the Senate is a permanent body, and was so construed in order to give durability to public measures. If they are not absolutely permanent, they are formed on a renovating principle which gives them a salutary stability. This is not the case either with the President or House of Representatives; nor is the Judiciary equally lasting, because the officers are subject to natural dissolution. It appears to me that a permanency was expected in the magistracy, and, therefore, the Senate were combined in the appointment to office. But if the President alone has the power of removal, it is in his power at any time to destroy all that has been done. It appears to me that such a principle would be destructive of the intention of the Constitution, expressed by giving the power of appointment to the Senate. It also subverts the clause which gives the Senate the sole power of trying impeachments, because the President may remove the officer in order to screen him from the effects of their judgment on an impeachment. Why should we construe any part of the Constitution in such a manner as to destroy its essential principles, when a more consonant construction can be obtained?

"It appears very clear that this power may be distributed by the Constitution; the House of Representatives have nothing to do with it. Why, then, should we interfere in the business? Are we afraid the President and Senate are not sufficiently informed to know their respective duties? Our interposition argues that they want judgment, and are not able to adjust their powers without the wisdom of this House to assist them.

"It was said by his colleague that these officers are the creatures of the law; but it appeared that we were not content with that, for we were making them the mere creatures of the President. They dare not exercise the privilege of their creation if the President shall order them to forbear; because he holds their thread of life; his power will be sovereign over them and will soon swallow up the small security we have in the Senate's concurrence to the appointment, and we shall shortly need no other than the authority of the supreme executive officer to nominate, appoint, continue, or remove."

On the other side it was argued by Boudinot, Baldwin, Benson, Goodhue, Lawrence, and others, that the President

had, and ought to have, the constitutional power of removing all executive officers at pleasure. Among the leaders in this debate, in advocacy of the power of removal by the President, were Fisher Ames and James Madison.

Ames argued with great ability this grave and important constitutional question. The Constitution places all executive power in the hands of the President; and could he personally execute all the laws, there would be no occasion for establishing auxiliaries; but the circumscribed powers of human nature in one man demand the aid of others. When objects are widely stretched out or greatly diversified, meaning through such an extent of territory as the United States possess, a minister cannot see with his own eyes every transaction, or feel with his hands the minutiae that pass through his department: he must, therefore, have assistants. But in order that he may be responsible to his country, he must have a choice in selecting his assistants, a control over them, with power to remove them when he finds the qualifications, which induced their appointment, cease to exist. The executive powers are delegated to the President with a view to have a responsible officer to superintend, control, inspect, and check the officers necessarily employed in administering the laws. The only bond between him and those he employs is the confidence he has in their integrity and talents; when that confidence ceases, the principal ought to have the power to remove those whom he can no longer trust with safety. If an officer shall be guilty of neglect or infidelity, there can be no doubt but he ought to be removed; yet there may be numerous causes for removal which do not amount to a crime. He may propose to do a mischief, but I do not believe the mere intention would be cause of impeachment; he may lose the confidence of the people upon suspicion, in which case it would be improper to retain him in service; he ought to be removed at any time, when, instead of doing the greatest possible good, he is likely to do an injury to the public interest by being combined in the Administration.

It had been said, when the question was argued at a previous time, that all powers not intended to be given up to the General Government were retained. He begged gentlemen, when they undertook to argue from implication, to be consistent, and admit the force of other arguments drawn from the same source. It is a leading principle in every free government, it is a prominent feature in this, that the legisla-

tive and executive powers should be kept distinct; yet the attempt to blend the legislative and executive departments in exercising the power of removal, is such a maxim as ought not to be carried into practice, or arguments grounded on implication.

After a brief allusion to the arguments of White, of Virginia, and Smith, of South Carolina, both of whom were opposed to the exercise of the power, Ames concluded by observing, that these are the opinions entertained by gentlemen on this subject: one that the power of removal is prohibited by the Constitution; the next is that it requires it by the President; the other that the Constitution is entirely silent. It appeared to him, therefore, proper for the House to declare what is their sense of the Constitution. If we declare justly on this point it will serve as a rule of conduct to the Executive Magistrate; if we declare improperly, the Judiciary will revise our decision: so that, at all events, the declaration ought to be made.

This debate was very protracted, especially between Madison and Gerry, the former coinciding with Fisher Ames, whose views have just been presented. Upon the winding up of Gerry's last speech, the call for the question becoming general, it was put, Shall the words "to be removable by the President" be struck out? when it was determined in the negative by a vote of 20 to 34.

1790. In February, the resolutions proposed by Fitzsimmons in relation to the funding system were taken up in committee of the whole. They related first to the provision for the foreign debt, about which there was but little debate; the second, which related to a permanent fund for the liquidation of the national debt, was the subject of a prolonged discussion.

The views of both sides of the question are fully indicated by the speeches of Smith, of South Carolina, on the one, and Scott, Livermore, Tucker, and Jackson, on the other.

In reference to the discrimination of the foreign debt, Smith, of South Carolina, said the Constitution was opposed to it; it was an *ex post facto* law. The transference of public securities was lawful at the time these alienations were made: an attempt to punish the transferees is an attempt to make an *ex post facto* law, by making that unlawful which was lawful at the time it was done; it alters the nature of the transaction and annexes the idea of guilt to that which, at the moment of commission, was not only perfectly innocent, but was

explicitly authorized and encouraged by a public act of Congress. By that act those who had money were invited to purchase of those who held securities, and now they were called upon to punish the purchasers who bought under that invitation. The Constitution restrains the States from passing any law impairing the force of contracts: *a fortiori* is the legislature of the Union restrained.\*

The reason of the opposition of Smith, as indicated above, was, that in accordance with the report of the Secretary of the Treasury, it was proposed to pay the full amount of the foreign debt, but to scale the domestic debts according to the depreciation at which they had been purchased by the present holders, as had been done in reference to the holders of depreciated paper money.† Smith, Sedgwick, Ames, Gerry, and Sherman, were the chief advocates for funding the debt at its nominal value.

The views of Scott and his followers were utterly untenable. The certificates, he contended, had been paid out at certain nominal rates, as indicated upon their face. But the actual cash value of a large part of them at the time of their issue, had not exceeded a sixth or an eighth of their nominal value, which induced him to think that they had been received as a sort of compromise between the United States and their creditors, and as an actual discharge of the claims at that reduced rate. The actual, and not the nominal value of the certificates when given, was the substantial value of the thing to be looked at; to redeem them at that rate would be a full compliance with the contract.‡

The funding system as finally passed, authorized the domestic debts to be paid by issuing certificates to the full amount, principal and interest; but upon one-third of the amount interest did not accrue until 1800.

The most important feature of this system was the assumption of the State debts; it had been defeated in the first instance, but by a parliamentary manœuvre, which has been appropriately called "log-rolling," it was tacked on the bill in reference to the removal of the seat of government, and finally passed by a vote of 28 to 24. By this act \$21,500,000 were distributed among the States, payable in certificates of the State debts, as follows:—Massachusetts and South Carolina, \$400,000 each; Virginia, \$3,500,000; North

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\* Elliott's Debates, vol. iv. p. 408.    † Hild. Hist. U. S., second series, vol. i. p. 153.    ‡ Hild. Hist. U. S., vol. i. p. 163.



Carolina, \$2,400,000; Pennsylvania, \$2,200,000; Connecticut, \$1,600,000; New York, \$1,200,000; New Jersey and Maryland, \$800,000 each; New Hampshire, \$300,000; Rhode Island and Delaware, \$200,000 each.

This measure was warmly advocated by Burke, Smith, of South Carolina, Lawrence, Goodhue, Gerry, Sherman, and others. Jackson, Page, White, and Moore opposed it with great vehemence. This was a just and proper measure, the reasons for which were clearly stated by Bland, of Virginia, the only one of her delegates who advocated it, and unfortunately died before the vote was taken. The debt of Virginia, for instance, incurred during the war, and amounted to \$3,300,000; the interest had been paid by import duties, but now this resource was cut off and no other means remained but by taxation. The General Government was the recipient of the funds formerly received by import duties, and it was but just, as it was constitutional, that the General Government should pay those debts which would have been paid from that resource had not the States relinquished it.

At this session of Congress the House became  
 March, 1790. involved in an exciting debate in reference to slavery. The constitution of Massachusetts declared all men to be born free and equal; her courts had decided that this provision abolished slavery. A few months before her constitution went into operation, that State and Pennsylvania had adopted a system of gradual emancipation. Connecticut, Rhode Island, and New Hampshire had adopted similar provisions. The other States still retained the slaveholding system, though in New York an ineffectual effort had been made as far back as 1785 to abolish slavery.

On the memorial of the Quakers from Pennsylv-  
 1790. ania, Delaware, and New York, concerning the abolition of the slave-trade, united with the petition from Pennsylvania, signed by Franklin, arose the debate which ensued in reference to the power of Congress over slavery. Hartwell moved the reference of the first memorial to a special committee.

Tucker said he considered the memorial so glaring an interference with the Constitution that he had hoped the House would not have given so much countenance to a request so improper in itself. Gerry replied to Tucker, and wished to know wherein the memorial had asked anything violative of the Constitution.

Burke reprobated the commitment as subversive of the Constitution, as sounding the alarm, and blowing the trump of sedition in the Southern States. He would oppose the business totally, and if chosen on the committee he would decline serving.

Scott, from Pennsylvania, was warmly in favor of the resolution and a friend of the memorial.

Jackson was opposed to it, and painted in strong colors the alarming consequences to be apprehended from taking up the business,—revolt, insurrection, and devastation,—and concluded by an observation similar to Burke.

Sherman saw no difficulty in committing the measure; the committee may bring in such a report as may be satisfactory to gentlemen on all sides.

Baldwin, an emigrant from Connecticut, then representing a district in the State of Georgia, referred to the principles of accommodation which prevailed at the time of forming the Government. Those mutual concessions which then took place gave us a constitution which was to insure the peace and the equal rights and properties of the various States, and to prevent all infraction of the rights in this particular instance, they precluded themselves, by an express stipulation, from all interference in the slave-trade. Congress is not called upon to declare its sentiments upon this occasion; it cannot constitutionally interfere in the business. He deprecated the consequences of such a measure in very forcible terms, and hoped the House would proceed no further in the investigation of the subject.

Smith, of South Carolina, recurring to the memorials, observed that Congress could not constitutionally interfere in the business upon the prayer of the memorialists, as that went to an entire abolition of slavery; it could not, therefore, with propriety be referred to a committee.

In the Southern States difficulties on this account had arisen in respect to the ratification of the Constitution, and unless their apprehensions on this head had been dissipated by their property being secured and guaranteed to them by the Constitution itself, they never could have adopted it. He then depicted the miseries that would result from the interference of Congress in the Southern governments. He asserted, as his opinion, that if there were no slaves in the Southern States, they would be entirely depopulated; from the nature of the country it could not be cultivated without

them; their proprietors are persons of as much humanity as the inhabitants of any part of the continent; they are as conspicuous for their morals as any of their neighbors.

John Page, of Virginia, was an ultra Republican, and had been defeated by Jefferson for the gubernatorial office, next addressed the House. He was in favor of commitment. He hoped that the benevolent designs of the respectable memorialists would not be prostrated at the threshold, so far as to exclude a fair discussion of the prayer of their memorial. He did not think it applied for a total abolition of slavery; it was only a request that such measures may be taken consistent with the Constitution, as may finally issue in the total abolition of the slave-trade.

Madison thought the best mode of proceeding would be to commit the memorial without debate. But, after the debate which had ensued, he entered into a critical review of the circumstances respecting the adoption of the Constitution; the ideas upon the limitation of the powers of Congress to interfere in the regulation of the commerce in slaves, and showing that they were not precluded from interposing in their importation. He adverted to the Western country and the cession of Georgia, in which he thought Congress have the power to regulate slavery; which showed that gentlemen were mistaken in supposing that Congress could not constitutionally interfere in the business in any degree whatever. He was in favor of committing the petitions, and justified the measure by repeated precedents in the proceedings of the House.

Gerry, who again occupied the floor, entered into a justification of the interference of Congress as being fully compatible with the Constitution. He descanted on the miseries to which these Africans are subjected by this traffic, and said he never contemplated this subject without reflecting what his own feelings would be in case himself, his children, or friends were placed in the same deplorable circumstances. He referred to the Constitution, and pointed out the restrictions laid on the General Government respecting the importation of slaves. It is not, he presumed, in the contemplation of any gentleman in this House to violate that part of the Constitution, but that we have the right to regulate this business is as clear as that we have any rights whatever; nor has the contrary been shown by any person who has spoken on the occasion. Congress can, agreeably to the Constitution, lay a duty of ten dollars a head on slaves; they may do this im-

mediately. He made a calculation of the value of slaves in the Southern States. He supposed they might be worth ten millions of dollars. Congress have a right, if they see proper, to make a proposal to the Southern States to purchase the whole of them, and their resources in the Southern country may furnish them with means. He did not suggest a measure of this kind, but instanced these particulars to show that Congress certainly have a right to intermeddle in this business.

Boudinot, from New Jersey, who had been commissary of prisoners during the war, and President of the Continental Congress, warmly advocated the views of Gerry.

Stone, of Maryland, was opposed to the memorial; he said it was a thing of course, for there never existed a society of any considerable extent which did not interfere with the concerns of other people, and this interference has at one time or other deluged the world with blood.

After four days of angry discussion, the memorial and petition were referred to a select committee of seven, six of whom were from the North and only one from the South, as follows:—one from Virginia, New Hampshire, Massachusetts, Connecticut, New York, New Jersey, and Pennsylvania.

The report of the committee was highly creditable to the members who composed it, and shows the character of the Congress at this day to have been beyond the reach of that fanaticism which have since indicated the temper of our Northern brethren. It was—

*First.* "That the migration or importation of such persons as any of the States now existing shall think proper to admit, cannot be prohibited by Congress prior to the year 1808."

*Secondly.* "That Congress have no power to interfere in the emancipation of slaves, or in the treatment of them, within any of the States; it remaining with the several States alone to provide any regulation therein which humanity and true policy may require."

*Thirdly.* "That Congress have authority to restrain the citizens of the United States from carrying on the African slave-trade for the purpose of supplying foreigners with slaves, and of providing by proper regulations for the humane treatment, during their passage, of slaves imported by said citizens into the States admitting such importations."

*Fourthly.* "That Congress have also authority to prohibit



foreigners from fitting out vessels in any part of the United States for transporting persons from Africa to any foreign port."\*

It will add much weight and dignity to the proceedings of the First Congress, to remember that among its leading men were found a respectable number who had been members of the Convention that formed the Federal Constitution, who not only understood its meaning, but were deeply imbued with its spirit. Among them were Langdon and Gilman, of New Hampshire; King, of Massachusetts; Sherman, of Connecticut; Morris, Clymer, and Fitzsimmons, of Pennsylvania; Bassett and Reed, of Delaware; McHenry and Carroll, of Maryland; James Madison, of Virginia; Butler, of South Carolina; Few and Baldwin, of Georgia.

1790. There was a third session of this Congress, which assembled at Philadelphia on the first Monday in December. The great measure of this session,—which was brief, terminating the 4th of March, 1791,—was the establishment of a national bank, which had been recommended by Hamilton.

In taking a retrospective view of the financial history of the country, it is not surprising that the bank should have found the favor it did with Congress and the people. Viewing it as a practical measure, which might alleviate for a time the embarrassment of the people, is the only excuse for it. From the very beginning of the North American Settlements there was a constant indebtedness to the Mother Country, which not only abstracted all the specie from the Colonies, but forced a resort to other things as a sort of medium of exchange. Virginia, Maryland, and North Carolina made use of tobacco for the purposes of exchange; in Massachusetts and other parts of the country corn and cattle were used. Massachusetts was the first to issue Government notes, which were made receivable for the payment of taxes in 1690, and afterwards a legal tender. The profuse issue of paper of this sort soon made it worthless. The same fate had awaited the issue of the notes of the Government during the Revolution. The Continental bills were succeeded by Continental certificates, which had also failed to supply the place of gold and silver.

Robert Morris had introduced a system of banking, bor-

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\* Elliott's Debates, vol. iv. p. 416.

rowed from the Mother Country, of issuing notes payable upon presentation in gold and silver. This institution, known as the Bank of North America, had been chartered by the Continental Congress; several others had been chartered by the States, which served to give satisfaction to the mercantile community of the North. The South scarcely required such facilities; they were only found in New York and Boston.

The State of Pennsylvania adopted, by amendment of its charter, the Bank of North America, on account of the doubts existing as to the validity of its charter by the Continental Congress, it being generally conceded that there was no authority on the part of Congress to charter a bank. This bank, however, went down on the death of Morris.

At the present time the financial affairs of the Government were much perplexed, especially in the <sup>1791.</sup> absence of a mint; we had to rely entirely upon foreign coin, and chiefly the Spanish dollar, with such others as flowed into our country by foreign trade. If there ever was a time that expediency would justify a national bank, it was this, when we had no national currency, when trade was stagnating for the want of a medium of exchange, and the Government embarrassed by the absence of a national currency. But it should be borne in mind that great danger lurks in the connection between the Government and banks, as is illustrated by the two great financial catastrophes in the history of American banking,—“the temporary stoppages of specie payments having both resulted from too intimate a connection on the part of the banks with the National Government; in the one case as rash and improvident borrowers, in the other case as borrowers no less rash and improvident.”\*

A bill was first introduced into the Senate for the incorporation of a national bank, through which body it passed without difficulty.

In the House it encountered a strong and able opposition. Giles, a new member from the Petersburg district, appeared as the successor of Bland, who died; he <sup>February 2, 1791.</sup> was soon an able and distinguished leader of the Republican party, than whom no one was more deeply imbued with its principles.

He opposed with great zeal and ability the chartering of

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\* Hild. Hist. U. S., vol. i. p. 262.

the national bank. He considered it unconstitutional, to show which he read the first section of the bill which established the subscribers of the bank into a corporation; to do which, he conceived, the Constitution had given Congress no power. He read the clause in the Constitution which had been adduced as sanctioning the exercise of such a power. This clause only respects, he said, all the necessary powers to carry into effect such as were expressly delegated; that of forming corporations was not expressly granted. He then adverted to the power of borrowing money, vested in Congress by the Constitution, and controverted the idea that a bank was necessary to carry it into execution; it might, he granted, conduce to a greater facility in exercising that power, but that it was expedient or necessary either to effect loans or establish the Government, he denied. If Congress in this instance, he observed, exercised the power of creating corporations, it was nowhere limited, and they might, if they thought fit, extend it to every object, and in consequence thereof monopolies of East and West India trade be established; and this would place us in the precise situation of a nation without a free constitution.

He referred to the clause in the Constitution which prohibits Congress from giving preference to one part of the United States over another, which he considered, with his other objections, sufficient to justify a rejection of the plan. If it is problematical only whether the establishment of this national bank is agreeable to the Constitution, this ought to be, he thought, sufficient to prevent an adoption of the system. He showed the consequences which would result from a doubt of the legality of the measure. He noticed the objections which had been originally made by the people to the Constitution, and the pains which were taken to obviate their fears and apprehensions. The adoption of this plan would realize many of their disagreeable anticipations. He denied the necessity of a bank for the preservation of the Government. The only object, as the subject struck his mind, was to raise stock; but it was certainly not expedient to kindle the flame of discontent, and rouse the fears and jealousies of the people in many States to raise stock.

He took notice of some observations which had fallen from other gentlemen respecting incidental powers, and denied that such were possessed by Congress.

The General Government was not a consolidated govern-

ment, but a federal government, possessed of such powers as the States or the people had expressly delegated; but to support these incidental powers ceded to Congress was to make it not a federal, not even a republican consolidated government, but a despotic one. If this idea was contemplated, the people would be alarmed, and they would be justly alarmed, and he hoped they would be alarmed.

Vining advocated the policy and constitutionality of the measure.

Madison, who did not oppose all banking systems, did not approve of the plan under consideration.

Upon the general view of banks he recapitulated the several advantages which may be derived from them. The public credit might be raised for a time, but only partially. Banks, he conceived, tended to diminish the quantity of precious metals in a country, and the articles received in lieu of a portion of them which was banished, conferred no substantial benefit on the country. He dwelt on the casualties that banks are subject to.

To be essentially useful in so extensive a country they should be fixed in different parts of the United States, and in this view the local banks of the several States could be employed with more advantage than if any other system was adopted. Circumstances, in Great Britain, required that there should be one bank, as the object there is to concentrate the wealth of the country at a point, as the interest of the public debt is all paid in one place. Here a difference of circumstances called for another kind of policy; the public debt is paid in all the different States.

He denied the power of Congress to establish banks, and he had long entertained the opinion. All power had its limits; that of the General Government was ceded from the mass of general power inherent in the people, and was consequently confined within the bounds fixed by their act of cession. The Constitution was this act, and to warrant Congress in exercising the power, the grant of it should be pointed out in that instrument; this, he said, had not been done; he presumed it could not be done. If we ventured to construe the Constitution, such construction was only admissible, as it carefully preserved entire the idea on which that Constitution is founded.

He adverted to the clauses in the Constitution which had been adduced as conveying this power of incorporation. He



said he could not find it in that of laying taxes. It was impossible to deduce it from the power given to Congress to provide for the general welfare. If it is admitted that the right exists there, every guard set to the powers of the Constitution is broken down, and the limitations become nugatory. The present Congress, it was said, had all the powers of the old Confederation, and more; under the old Government a bank had been established, and hence it was deduced that the present Legislature had indubitably that power. The exigencies of Government were such, he answered, under the old Confederation as to justify almost an infraction of parchment rights; but the old Congress were conscious they had not every power necessary for the complete establishment of

1790. a bank, and recommended to the individual States to make sundry regulations for the complete establishment of the institution.

To exercise the power included in the bill was an infringement on the rights of the several States; for they could establish banks within their respective jurisdictions and prohibit the establishment of any others. A law existed in one of the States prohibiting cash notes of hand, payable on demand. The power of making such a law could not, he presumed, be denied to the States; and, if this was granted, and such laws were in force, it certainly would effectually exclude the establishment of a bank.

This power of establishing a bank had been deduced from the right granted in the Constitution of borrowing money; but this, he conceived, was not a bill to borrow money. It was said that Congress had not only this power to borrow money, but to enable the people to lend it. In answer to this, he observed, that if Congress had a right to enable those people to lend who are willing but not able, it might be said that they have a right to compel those to lend who are able but not willing.

He adverted to that clause in the Constitution which empowers Congress to pass all laws necessary to carry its powers into execution, and observing on the diffusive and ductile interpretations of their words and the boundless latitude of construction given them by the friends of the bank, said that by their construction every possible power might be exercised. The Government would then be paramount in all public cases; charters, corporations, and monopolies might be given, and every limitation effectually swept away, and

it could effectually supersede the establishment of every bank in the several States.

The doctrine of implication, he warned the friends of this system, was a dangerous one, which, multiplied and combined in the manner some gentlemen appeared to contemplate, would form a chain reaching every object of legislation in the United States. This power to incorporate, he contended, was of primary importance, and could by no means be viewed as a subaltern, and therefore ought to be laid down in the Constitution to warrant Congress in the exercise of it and ought not to be considered as resulting from any other power.

Incorporation is as important as the power of naturalization; and Congress, he presumed, would not exercise the power of naturalizing a foreigner, unless expressly authorized by the Constitution. He read a sentence in the bill respecting the power of making such regulations as were not contrary to law. What law? Was it the law of the United States? There were so few, that there was allowed a very considerable latitude to the power of making regulations, and more than any member, he conceived, would wish to grant. Were the laws of the individual States contemplated by this provision, then it would be in the power of the separate States to defeat an institution of the Union. He asked by what authority Congress empowered a corporation to possess real estate; he reprobated the idea. To establish this bank was establishing a monopoly, guarantied in such a manner that no similar privilege could be granted to any other number of persons whatever. He denied the necessity of instituting a bank at the present time; the Constitution ought not to be violated without urgent necessity indeed. There were banks in the several States from which some advantages could be derived which could not be gained from an institution on the plan proposed.

In confirmation of his sentiments, he adduced certain passages from speeches made in several of the State conventions by those in favor of adopting the Constitution. These passages were fully in favor of this idea, that the General Government could not exceed the expressly delegated powers; in addition to which he alluded to the amendments proposed by Congress to the Constitution.

In opposition to Madison, and in behalf of the bill, appeared Fisher Ames, from Massachusetts, a very able man,

and among the most prominent of the Federal party then in Congress.

Ames said, for his own part, he never doubted the constitutionality of the plan, and if the public sense was to be regarded on the occasion, their approbation of the measure taken by the old Confederation respecting the Bank of North America, and their total silence on the constitutionality of the plan before Congress at this day, were to him sufficient proofs on the subject. The first question was, whether the powers of the House were confined to those expressly granted by the letter of the Constitution; or whether the doctrine of implication was safe ground to proceed upon. If the letter of the Constitution was to be adhered to, the question he deemed determined; but if a more rational plan was adopted and the sense of the Constitution, upon strict examination, appeared even doubtful, every member must then appeal to his conscience and understanding. If the powers of the House were circumscribed by the letter of the Constitution, much expense might have been saved to the public, as their hands would have been completely tied. But by the very nature of government, the Legislature had an implied power of using every means not positively prohibited by the Constitution, to execute the ends for which that government was instituted. Every constitutional right should be so liberally construed as to effect the public good. This, it has been said, was taking too great a latitude; but certainly to promote the ends of government, was the end of its existence; and by the ties of conscience each member was bound to exercise every lawful power which could have a tendency to promote the general welfare: it had been said that the doctrine of implication was dangerous, and would alarm the people; he thought it would not unless the alarm was well founded.

Suppose the power of raising armies was not expressly granted to the General Government, would it be inferred from hence that the power of declaring war, without the means of carrying it on, had been ceded to them; would it be said that the blood of fellow-citizens was crying for vengeance, though their lives and property called for protection from the hand of government; would it be said that they had not a constitutional right to be protected; would it be urged that the Constitution, by not expressly granting to the General Government the power of levying armies, had put it

out of their power to protect its citizens? This he conceived would be a very dangerous doctrine.

Suppose the power of borrowing money had not been expressly given to the Federal Government, would it not, in emergencies, be inferred from the nature of the general powers granted to it? Suppose the power to lend had not been mentioned, and a surplus revenue in the public coffers, should it be distributed among the people or locked up and suffered to remain unproductive in the Treasury? Suppose the question of redeeming the prisoners in captivity at Algiers was before the House, would it be urged that nothing could be done in their favor by the General Government, because no power was specially granted? Every person, he conceived, who felt as a man, would not think his hands tied when they were to be extended to the relief of suffering fellow-citizens. The power of buying certificates was not particularly mentioned in the Constitution, yet it had been exercised by the General Government, and was inferred from that of paying the public debt, and from the reason of the case. The power of establishing banks, could be deduced from the same source, from their utility in the ordinary operations of government and their indispensable necessity in cases of sudden emergencies. It was said that the State banks would serve all these purposes; but why deprive the General Government, he asked, of the power of self-defence?

He proceeded to prove that the power of incorporating the subscribers to the bank, could be deduced from that clause in the Constitution which had been termed the sweeping clause. Unless a reasonable latitude of construction of this part of the Constitution was allowed, he did not see upon what authority several acts of Congress would rest. Whence did the General Government draw the authority they had exercised over the Western territory? That authority, he answered, must of necessity belong to Congress; it could not rest with the individual States.

The power here was derived by implication, and was deduced from the reason and necessity of the case; and the power contended for in the present case might for the same reasons be exercised, and was drawn from the same source. The government of the Western territory was a special corporation, a corporation in its nature the most important; and would it be said that Congress had acted unconstitutionally when they established it; and would the territory



be left under the control of the individual States? He presumed not. By the Constitution a power of regulating trade was specially given to Congress; under this clause they had established regulations affecting ships, seamen, light-houses, &c. By parity of reasoning, he conceived that as the power of collecting taxes was specified among the rights granted by the Constitution to Congress, they undoubtedly were entitled to make regulations affecting the instruments by means of which those taxes were to be collected. Some opposition to the system arose from the idea that it was an infringement on the rights of individual States. This objection he answered. It could not be denied that Congress had the right to exercise complete and exclusive jurisdiction over the district, ten miles square, ceded for the seat of permanent residence, and over such spots as were ceded for light-houses, &c. In these places, then, it must be granted that Congress had authority to establish a bank. If this was allowed (and he could not see how it could be denied,) then the question became a question of place, and not of principle. He adverted to the preamble of the Constitution, which declares that it is established for the general welfare of the Union. This vested Congress with authority over all objects of national concern or of a general nature. A national bank undoubtedly came under this idea, and though not specially mentioned, yet the general design and tendency of the Constitution proved more evidently the constitutionality of the system than its silence in this particular could be construed to express the contrary. He deduced the power also from those clauses in the Constitution which authorize Congress to levy and collect taxes. This could not be done from every corner of so extended a country, without the assistance of paper.

The debate was continued for a few days by Sedgwick, Lawrence, Sherman, and others, in behalf of the bill; who were opposed by Jackson, R. B. Lee, and others. The bill passed the House by a vote of 39 to 20.\* Washington exercised great caution and deliberation before affixing his signature to a measure of such importance. Written opinions were submitted to him by every member of the Cabinet, upon which they were divided; Jefferson and Randolph being opposed to it upon grounds of expediency and constitu-

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\* Elliott's Debates, vol. iv. p. 416.

tionality, while Hamilton and Knox were its warm advocates. Washington ultimately signed the bill.

The capital of this bank consisted of 25,000 shares of \$400 each; its duration was limited to twenty years. Eight millions were to be subscribed by individuals, and two millions by the Government. The affairs of the bank—which was located at Philadelphia—were managed by a board of twenty-five directors, chosen annually by the stockholders; the directors were to choose a president from their own body.

The second Congress assembled at Philadelphia, Oct., 1791.  
in obedience to a resolution of the preceding Congress. In both branches of the National Legislature, the Federalists were in the majority.

The first census of the United States had been taken and presented to this Congress. Its details were very simple, exhibiting the population as follows:—

Free white males 16 years and upward, 814,396. Free white males under 16 years, 802,077. Free white females, 1,536,638. All other persons except Indians not taxed, 59,481. Slaves, 697,697. Total, 3,921,326.

The number of members in the House was fixed at 105; not, however, without great difficulty and angry debate, which abounded in threats to dissolve the Union from the Northern section. The first bill fixed the number of Representatives at 113; which was adjusted to the ratio of one member for every thirty thousand, leaving large fractions at the North unrepresented, which occasioned the opposition from that section. The Senate amended the bill by raising the ratio to thirty-three thousand, which, decreasing the fractions in the Northern States, increased them at the South. The House would not accede to the amendment of the Senate, but it was sustained, when sent back, by the casting-vote of the Vice-President; the House ultimately refused to recede from its first position, and this bill was lost. The House sent up a second bill, adopting thirty thousand as the ratio, providing at the same time for a new census and a new distribution of Representatives, previous to the adjournment of the ensuing Congress. The Senate altered the bill by increasing the number to 120, and striking out the clause relating to the census and a new apportionment. The Senate's amendment was disagreed to, 31 to 30; when sent up, the Senate determined to maintain its position. A committee of conference was asked, which, though appointed, resulted in

no good, the Senate standing to its former position. The House finally yielded by a vote of 31 to 29, almost geographical; the North in favor of a concurrence with the Senate, the South opposing it. This bill was sent to Washington, who vetoed it, Jefferson and Randolph being opposed to the bill, while Hamilton and Knox advised the President to sign it. A third bill was then introduced into the House, which apportioned the representation at the ratio of thirty-three thousand, which gave 105 members.

It is worthy of observation that, according to the census, slavery existed throughout the Union, except in Massachusetts and Maine, Maine being at that time a part of Massachusetts.

The struggle commenced at this time for a predominance of power between the Northern and Southern parts of this Union, which has often been agitated with the utmost violence. In reference to an increased number of Representatives, the idea was favored by Northern men with a view to increase the taxation on slaves, the Southern States being much more extensively slave-holding.

The first administration of Washington is interesting and instructive, not only on account of the management of our financial and domestic affairs, the high, neutral, and conservative policy manifested in reference to the wars that raged in Europe at the time, but the light and wisdom thrown upon questions of deep and vital constitutional interest by those who had imbibed its spirit by watching and assisting at its formation and first operation.

1793. In March, Washington was inaugurated for the second term. In December of the same year, the Third Congress assembled. The friends of the Administration endeavored to elect Sedgwick Speaker, but by a combination of parties, anti-Federal in tone and character, Muhlenburg was chosen by a majority of ten votes. The Fifth Annual Message was communicated to Congress the first day of its session; the most important feature of which was the allusion to the proclamation of strict neutrality which had been issued, in April preceding, in reference to the wars then raging in Europe,—heavy penalties being visitable upon all American citizens who violated this principle of neutrality, fundamental to the well-being of our Government, and established at this early period as the fixed policy of the nation. The attention of Congress was chiefly

occupied with the commercial affairs of the country, and our relations with France. Congress on the 23d of February, 1791, passed a resolution calling on the Secretary of State for information in reference to our commerce. The report was sent in on December the 16th, 1793. On the 30th of December he made an additional report, communicating certain documents from foreign governments.\*

This report, for fullness and accuracy, presenting with logical clearness the interest and duties of the United States, was justly celebrated as one of the ablest efforts of that talented and distinguished statesman, Thomas Jefferson. On the next day he retired from the cabinet. He had lost the influence he once exercised on the political friends and associates of the President, while Washington had begun to suspect him of treachery. It was obviously the duty, as well as the interest of Jefferson, that he should retire. Hamilton and Knox represented the views of the President; while Jefferson and Randolph were the warm advocates and strenuous friends of the Republican party, which they were striving to excite into life and action upon the overthrow of the Administration, and, in some respects, the political principles of Washington.

The limited resources of the country and the arduous difficulties through which our commerce struggled, are exhibited by the report of Jefferson. But, at the same time, all must be struck with the masterly policy that brightly shone over every effort of the Administration in reference to our foreign relations. The countries with which the United States had their chief commercial intercourse were Spain, Portugal, France, Great Britain, the United Netherlands, Denmark, and Sweden. The articles of export which constituted the basis of our commerce, with their respective amounts, were—

Tobacco .....	\$4,349,887	Horses and mules.....	\$339,753
Rice.....	1,753,796	Whale oil.....	252,591
Wood.....	1,263,534	Flaxseed.....	236,072
Salted fish.....	941,693	Tar, pitch, and turpen-	
Pot and pearl ash.....	839,093	tine.....	217,177
Salted meats.....	599,130	Live provisions.....	137,743
Indigo.....	537,379	Foreign goods.....	620,274

Exports under this report, were.....\$7,649,887

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\* American State Papers, vol. i. p. 422; Stat. Man., vol. i., p. 85.



The proportion of our exports which went to the nations before mentioned were in the following ratio:—

Spain and its dominions.....	\$2,005,907
Portugal and its dominions.....	1,283,462
France and its dominions.....	4,698,735
Great Britain and its dominions.....	9,363,416
United Netherlands and their dominions.....	1,963,880
Denmark and its dominions.....	224,415
Sweden .....	47,240

Due imports from the same countries were as follows:—

Spain and its dominions.....	\$355,110
Portugal and its dominions.....	595,763
France and its dominions.....	2,068,348
Great Britain and its dominions.....	15,285,428
United Netherlands and their dominions.....	1,172,692
Denmark and its dominions.....	351,364
Sweden .....	14,325

The casting up of the above table, will exhibit the heavy disadvantages that pressed us down; the disparity between our exports and imports, and that at a time, as is here exhibited, when a heavy debt rested like an incubus upon our tender and youthful bosom.

This report exhibited to Congress for the first time the many and heavy restrictions that existed upon our commerce, and urged the President and cabinet to the negotiation of treaties with all the countries named above; which gave not only more importance to the diplomatic negotiations at Washington, but invested them with an interest and feeling that have attended no subsequent Administration. Upon all the articles alluded to in the foregoing table, each country mentioned had some prohibitory or highly-restrictive duty.

The report of Jefferson recommends, as the best manner in which our commercial difficulties might be “removed, modified, or restricted,”—first, “by friendly arrangements with the several nations with whom these restrictions exist;” or, secondly, “by separate acts of our legislatures for countervailing their effects.” He expresses the decided opinion that the better mode would be the former, and that countervailing restrictions would embarrass our commerce “under piles of regulating laws, duties, and prohibitions.” At times he seemed to indulge in the theory of unlimited and unrestricted commerce with the world, but afterwards it received from his hands the most unqualified rebuke. Indeed, it appears in the latter part of this very elaborate and uncommonly able

document, that he had considerable doubt about its beneficial operation; wherein he says,—“But should any nation, contrary to our wishes, suppose it may better find its advantage by continuing its system of prohibitions, duties, and regulations, it behooves us to protect our citizens in their commerce and navigation by counter prohibitions, duties, and regulations also.”

He exemplified in his latter years the truth of this remark, and found it impossible to practice a theory which bore the condemnation of the world, however cherished it may have been by statesmen of the Jeffersonian school. “Free commerce and navigation are not to be given in exchange for restrictions and vexations, nor are they likely to produce a relaxation of them.” 1794.

Whatever may have been Jefferson’s theoretic predilections for free-trade, it cannot be doubted that he abandoned them to some extent, and that our tariff policy received an early introduction into the practical operations of the Government at this time, and from this report.

The very restrictive system adopted by Europe fell with dreadful blight upon our budding commerce. Great Britain had inflicted upon it great injury, with her eight or nine hundred vessels of nearly 40,000 tons burden. This was more than our country could bear, and our remedy was alone to be found in the *lex talionis*.

On the 4th of January, Madison introduced into the House a series of resolutions in reference to our commercial affairs; they were somewhat in conformity with Jefferson’s report. They proposed to lay specific duties on different branches of manufactures; to lay additional tonnage duties on vessels of those nations who had no commercial treaty with the United States; to reduce the duties on the vessels of those who had such treaties; to retaliate all the restrictions which were imposed by other nations, whether on the commerce or the navigation of the United States, either by the like restrictions or a tonnage duty; and lastly, to reimburse the citizens of the United States for the losses they had sustained by the illegal procedures of other nations, out of the additional duties laid on the product and shipping of such nation.\*

These resolutions were indefinitely postponed, yet the prin-

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\* Tucker’s Life of Jefferson, vol. i. p. 475; Marshall’s Life of Washington, vol. ii. p. 292.

ciples they inculcated, immortal as the memory of their author, were ultimately destined to triumph.

They gave rise, however, to a protracted debate, in which the two great parties of the country occupied widely different positions. They were advocated by Madison, Nicholas, Giles, Findley, and others, on the one hand; and opposed by Ames, Boudinot, Hillhouse, Smith, of Maryland, Smith, of South Carolina, and others, of the Federal school.

The Federalists endeavored to show that the commercial policy of Great Britain was more favorable to the United States than was that of France. The large amount of our imports from England, of which some complained, was also an evidence that we could purchase of her better fabrics, or on cheaper terms, than from other countries; that to discourage the trade with Great Britain by high duties, for the sake of bringing her to the level of other nations, was to tax ourselves for their benefit; that as to our navigation, it was admitted to be on a more favorable footing in the French than the English West Indies.

The resolutions were supported on the ground that most of the injuries which the United States received from Great Britain proceeded from her unceasing efforts to extend her commerce, and could only be countervailed by an appeal to the same regard to her interest. Its advocates were of opinion that the propositions before the committee were the strongest weapons America possessed, and would, more probably than any other, restore her to all her political and commercial rights. They professed themselves the friends of free-trade, and declared the opinion that it would be to the general advantage if all commerce was free. But this rule was not without its exceptions. The Navigation Act of Great Britain was a proof of the effect of one exception on the prosperity of national commerce.

The idea was in existence too at this day, that there was another exception to the advantages of a free-trade, where the situation of a country is such with respect to another that by duties on the commodities of that other it will not only invigorate its own means of rivalry, but draw from that other the hands employed in the production of those commodities.\* It may be said that the most efficient reasons

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\* Marshall, vol. ii. p. 303; Tucker's Life of Jefferson, vol. i. p. 477; Hild. Hist. of U. S., second series, vol. i. p. 459; Elliott's Debates, vol. iv. p. 442.

for postponing these resolutions were that our diplomatic relations with Great Britain were unsettled and uncertain; that she might be irritated to the extent of defeating our treaty stipulations; and that our commerce would greatly suffer by a failure to negotiate with that power.

At this time a very interesting question was brought to the consideration of Congress, which resulted in an amendment to the Constitution of the United States, and forms the Eleventh Article to the amendments, in these words,—“That the judicial power of the United States should not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.”

This amendment was proposed and carried at the first session of the Third Congress, and was afterwards ratified by three-fourths of the several States.

This amendment was deemed necessary, and originated from the following circumstances. The question came up to the Supreme Court on a suit brought by a citizen of South Carolina against the State of Georgia. When the case was tried a majority of the court thought it constitutional for the suit to be brought, and it was maintained upon that clause in the Constitution which says the Judiciary of the United States shall have authority to decide in “controversies between two or more States, between a State and citizens of another State, between citizens of different States, and between a State and citizens thereof and foreign States, citizens, or subjects.” One of the judges expressed doubts, whether under this clause the Constitution intended to give such authority to the courts of the United States, being, in his opinion, a denial of the sovereignty of the States.†

In the summer of this year arose one of those remarkable ebullitions of popular feeling which, 1794. though rare, are yet always to be dreaded. It is now known historically as the *whisky insurrection*.

Among the measures adopted at the first session of the Second Congress was an excise act, imposing a duty on domestic distilled spirits. The measure was very unpopular and distasteful to the people. Great excitement was produced, and the discontent increased until the year 1794. In Pennsylvania the popular feeling was irrepressible for a time,

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\* Stat. Man., vol. i. p. 86.



and great outrages were committed; until, finally, the President issued his proclamation to the Governors of Virginia, Maryland, Pennsylvania, and New Jersey, for 15,000 men. It was estimated that the insurgents could muster 16,000 well-trained and efficient fighting men, and it was deemed most judicious by the Executive to send a sufficient force to break down all attempts at a resistance to the law. Peaceful measures, however, were not overlooked; commissioners were appointed by the President,—Bradford, recently made Attorney-General, Ross, a United States Senator, and Judge Yates, of the Supreme Court of Pennsylvania,—to visit the insurgent counties, with discretionary powers to arrange, any time prior to the 14th of September, for a submission to the laws. McKean and Gen. Irving were appointed on behalf of the State. At the same time Mifflin, the Governor of the State, issued two proclamations, the one calling together the legislature, the other announcing his determination to obey the President's call for the militia, and requiring the rioters to submit. These commissioners proceeded to the infected district, where they found a convention of upwards of two hundred members,—the county of Ohio, in Virginia, being represented by three delegates. On an eminence near Parkinson's Ferry, beneath the shade of spreading trees, surrounded by many spectators, some with arms, sat this rustic assembly. Albert Gallatin was present and acted as secretary, whilst Cook was chairman.

A set of resolutions were offered in this meeting against removing citizens out of the vicinage for trial, which passed unanimously. The second proposed a committee of public safety, with authority to call forth the resources of the western part of the State to repel any hostile attempts against the citizens. Gallatin, who was opposed to all hostile proceedings, opposed this resolution, and proposed its reference to a committee. The mover, a man named Marshall, who began to waver, proposed to withdraw it, provided a committee of sixty were appointed to call another meeting, which was agreed to.

In order to reduce this resolution into proper shape, it was referred to a sub-committee, consisting of Bradford, Gallatin, Breckenridge, and Husbands. Breckenridge, who was a candidate for Congress from the Pittsburg district, affected to act with the insurgents. The action of this sub-committee,

which was unimportant, resulted in fixing the day for the meeting of the committee of sixty on the 2d of September.

The first primary meeting had also appointed a committee of fifteen, to prepare business for the committee of sixty.

This committee of fifteen met the commissioners at Pittsburgh; Gallatin and Breckenridge, whose sentiments had undergone a change, Cook, Marshall, and Bradford (not the Attorney-General) all were in favor of settling the dispute amicably, except Bradford. The demands of the commissioners were moderate, requiring from the committee of sixty a declaration to the effect, that they would submit to the laws. After many efforts to conciliate the insurgents, which failed, the commissioners reported to the President the result of their mission. On the next day, he issued his proclamation, giving notice of the advance of the Sept. 24. United States army, which, consisting of 15,000 men, had been held in readiness to support the laws.

The invasion of a sovereign State by United States troops is always to be dreaded. It had, however, the effect of restoring quiet; and at the third meeting of the Parkinson Ferry Convention, resolutions were adopted, submitting to the civil law, and recommending all delinquents who had not already secured an indemnity, to surrender for trial, and agreeing that the excise duty might be collected. The next step in this important proceeding was the arrest and trial of persons supposed to be criminally concerned in the late transactions. Many, however, of the leading characters had fled. Many who were arrested were dismissed, and nearly all acquitted. Breckenridge was bound over to stand his trial, but was discharged in order to be made a witness. Gallatin, who was afterwards elected to Congress from Pennsylvania, was upon the recent election returned to the Pennsylvania Assembly. Hamilton made great exertions to bring Gallatin to trial, but failed. In a speech delivered in the Assembly of Pennsylvania, he confessed that he was engaged in the preparation of the Pittsburgh resolutions of 1792, which, though violent, were not illegal; and during the Parkinson Ferry conventions, he had appeared in a very conciliatory attitude. The charges of this insurrection upon the National Treasury, amounted to one million one hundred thousand dollars.\*

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\* Bradford's Hist. of Fed. Gov., p. 75; Hild. Hist. U. S., second series, vol. i. p. 515.

1795.

On Monday, the 8th of June, the Senate convened, in conformity with the summons of the President, for the purpose of taking into consideration Jay's treaty with Great Britain; which, on the 24th of the same month, after a minute and laborious examination, was ratified by a constitutional majority.

Randolph was the only member of the cabinet opposed to the treaty. Unbounded excitement spread throughout the country when the action of the Senate was known. Jay was the subject of unmeasured wrath; while party spirit, inflamed by the darkest passions, leveled its poisoned shafts even at Washington, who previously, and in reference to the Pennsylvania insurrection, had made some enemies, who for a time had been somewhat restrained; but now their bitterest feelings were unloosed. Not only was the political conduct of the President assailed, but his moral character was equally the subject of detraction. It was alleged by the enemies of the Administration that he had not only violated the Constitution in negotiating the treaty without the advice and consent of the Senate, which was untrue, but that he had drawn more money from the treasury for his private purposes than his salary allowed, which no one could believe. "If," said Marshall, the friend and biographer of Washington, "the ratification of the treaty increased the number of its open advocates, by stimulating the friends of the Administration to exert themselves in its defence, it seemed also to give increased acrimony to the opposition. Never was a man or measure more improperly assailed than Washington in reference to the Jay treaty."

Great umbrage was taken at the mysterious secrecy in which the negotiation had been involved. There was a predetermined hostility to the treaty, which increased as the period for deciding its fate approached; yet on its merits no particular opinion could be formed, because they were unknown. On the question of reconciliation between the two countries, a decisive judgment extensively prevailed. The sentiments called forth demonstrated that no amicable arrangement of our difficulties with Great Britain would be satisfactory. The statesman will ever look with delight and admiration upon the justness and wisdom that illustrate the administration of Washington in reference to our foreign affairs. Sympathy for France had been the main source of this violent opposition to the Jay treaty. Europe was agi-

tated and convulsed to its very centre by the violent wars that had raged for a long time. France, torn by domestic strife and oppressed by enemies from abroad, had been our strong and efficient ally during the Revolution, and entertained feelings of the highest admiration for the beauty, force, and simplicity of our republican Government. Why should not the American who had stood side by side with the French at many a hard-fought battle, under the flag of America, not feel the warmest regard for France? Her position in the affairs of Europe was critical and alarming. Great Britain, Austria, Prussia, Sardinia, and the United Netherlands, stood with a common cause in deadly array against France, single-handed and unsupported. It was not unreasonable that a strong party should exist in this country, in whose bosom glowed the most animated feelings in behalf of the French. They had poured out their blood upon American soil to fertilize the land of liberty, and expended with a free and generous hand their money to feed the poor soldiery of the infant Republic. The spirit of republican freedom which had sprung from our soil had been wafted across the waters, inhaled by the Cabinet of Versailles, and found a quick and welcome reception in the breast of the French people. Sympathy and gratitude, equal in strength to any other passion of the human heart, united to urge our people to their rescue. Superadded to all this was a deep-rooted, and by no means unnatural hatred towards Great Britain. Washington felt a deep interest and anxiety for France. But our Government, young, weak, and undeveloped; our commerce, small and inadequate, and the debts of the Revolution heavy and pressing; our own health and vitality had to be nourished and protected with the utmost caution and skill. Our Government lacked the ability to give succor, and it was to our interest to cultivate the most friendly relations with all foreign powers. It was not then, nor can it ever be, to the interest of the United States to take any part in European difficulties.

Agriculture presented its alluring charms, with a genial clime, a rich and virgin soil, an athletic and industrious yeomanry; while Europe looked to us for food for her overgrown population and myriad army. There was true wisdom in the policy of our Government, proclaimed in the last official paper of the first administration of Washington, in which, as has been observed, he enforced by proclamation strict



neutrality, which, though it gave some offence to the French, had the desired effect of keeping our people in proper restraint.

In reference to the policy which guided the Administration in its connection with Great Britain, it is obvious no other salutary course could have been pursued. A treaty or another war was absolutely unavoidable. The great injustice and oppression visited upon us must have been allayed at the cannon's mouth, or our just and national rights recognized and enforced by the sovereignty of treaty stipulations.

The paralyzing effects of a seven years' war still preyed upon us; with our energies thus impaired, every sentiment of high and patriotic duty impelled our Government to seek an honorable and amicable adjustment of the difficulties that

1794.

existed. In April, the President nominated John Jay as Envoy Extraordinary to the Court of St. James. Our commerce was subjected at this period to ruinous depredations. By the influence of the British Ministry peace had been concluded between the Dey of Algiers and Portugal. The vessels of the former had availed themselves of every opportunity in pursuing their depredations upon our commerce. The negotiation of the peace had been attributed to Great Britain from unfriendly purposes towards the United States. This the Ministry disavowed. In consequence of our relations with Spain, we were in imminent hazard of war with that nation. The Spaniards meditated an attack upon us on the Mississippi, to which they were instigated by the French Minister, M. Genet.

France and England made unfriendly exhibitions towards the United States, each being dubious of the assumed neutrality of this Government. France had, with much arrogance, intimated that she expected aid from us, and that national gratitude should prompt us to the effort. Great Britain feared an alliance between this Government and the French, whilst the latter had despaired of aid from us; each ignorant of the diplomatic secrets of the other, felt great vexation towards the United States Government.

Besides these and many other intricacies, all tending strongly to involve us in war with England, the feelings of our people were excited to the highest degree. An embargo had been laid for thirty days, and at its expiration, for thirty days more. A law had passed Congress to empower the President to establish and revoke embargoes at

April.

his discretion. An act had also passed increasing the officers and privates of the army; and authority was vested at the same time in the President to call on the Governors of the States for an increase of the militia. He was also empowered to have ten vessels of war built for our defence; and many other acts were passed having a tendency to augment and embitter the national feeling towards Great Britain.

It was under these circumstances, surrounded with these many vexed questions, that the ship of State had to be steered; and amidst which John Jay, relinquishing the highest law office in the world, accepted in his patriotic and self-sacrificing devotion to his country, the mission to England. No one was ever charged with higher interests; never was an ambassador perplexed with more difficult and harassing duties, which were discharged with consummate skill and wisdom.

I have alluded to the great opposition of many distinguished members of Congress to this treaty. The excitement even reached many of the State legislatures; whilst the populace of many of the large cities were riotous in their opposition not only to this treaty, of which they knew nothing, but to the idea of a treaty of any description.

The best defence of the treaty, of Washington, and of the negotiation, was delivered by Fisher Ames, in answer to Madison and Giles, who had assailed it with their greatest ability and boldest declamation, for which the latter was eminently conspicuous. Madison contended that if the proposition for carrying the treaty into effect be agreed to, it must be from one of three considerations: either that the Legislature is bound by a constitutional necessity to pass the requisite laws without examining the merits of the treaty; or that, on such examination, the treaty is deemed in itself a good one; or that there are good extraneous reasons for putting it in force, although it be in itself a bad treaty. The first consideration being excluded by the decision of the House,—that they have a right to judge of the expediency or in expediency of passing laws relative to treaties,—the question first to be examined must relate to the merits of the treaty.

He mentioned the permission of aliens to hold lands in perpetuity as a very extraordinary feature in the treaty. He would not inquire how far this might be authorized by constitutional principles, but he said no example of such a stipulation was to be found in any treaty that ever was made,

either where territory was ceded or where it was acknowledged by one nation or another; although it was common and right in such regulation in favor of the property of the inhabitants, yet he believed that in every case that ever had happened the owners of landed property were universally required to swear allegiance to the new sovereign, or dispose of their landed property within a reasonable time. With respect to the great points in the law of nations, comprehended in the stipulations of the treaty, the same want of real reciprocity and the same sacrifice of interest of the United States were conspicuous.

It is well known to have been a great and favorite principle with the United States that "free ships make free goods;" they had established the principle in their other treaties. They had witnessed with anxiety the general efforts and the successful advances towards incorporating this principle into the law of nations, a principle friendly towards all neutral nations, and particularly interesting to the United States. He knew that at a former period it had been conceded on the part of the United States, that the law of nations stood as the present treaty regulates it. But it did not follow that more than acquiescence in that doctrine was proper. There was an evident distinction between silently acquiescing in it, and giving it the support of a formal and positive stipulation. The former was all that could have been required, and the latter was more than ought to have been unnecessarily yielded.\*

Is it possible, said Ames, for a real American to look at the prosperity of this country without some desire for its continuation—without some respect for the measures which many will say produced, and all will confess have preserved it? Will he not feel some dread that a change of system will reverse the scene?

The well-grounded fears of our citizens in 1794 are not forgotten. Then they deemed war nearly inevitable; and would not this adjustment have been considered, at that day, as a happy escape from the calamity? The great interest and general desire of our people was to enjoy the advantages of the neutrality. This instrument, however misrepresented, affords America that inestimable security. The causes of our disputes are either cut up by the roots or referred to a new

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\* Elliott's Debates, vol. iv. p. 448

negotiation after the end of the European war. This was gaining everything, because it confirms our neutrality, by which our citizens are gaining everything. This alone would justify the engagements of our Government. When the fiery vapors of war lowered in the skirts of our horizon, all our wishes were concentrated in this, that we might escape the desolation of the storm.

This treaty, like a rainbow on the edge of the cloud, marks to our eyes the space where it is raging, and affords at the same time the sure prognostic of fair weather. If we reject it, the vivid colors will grow pale; it will become a baneful meteor, portending tempest and war.

Let us not hesitate, then, to agree to the appropriation to carry it into faithful execution. Thus shall we save the faith of our nation, secure its peace, and diffuse a spirit and enterprise that will augment its prosperity. The progress of wealth and improvement is wonderful, and some will think too rapid; the field of exertion fruitful and vast; the rewards of enterprise go to augment its power; profit is every hour becoming capital; the vast crop of our neutrality is all seed wheat, and is sown again to swell almost beyond calculation the future harvest of prosperity. In a strain of irresistible logic or impassioned eloquence this truly great man continued for some time to address the House.\*

John Adams heard the speech. Iredell was sitting with him. "My God, how great he is!" exclaimed the judge. "How great he has been—noble!" said Adams. It was designed that this speech should close the debate in the House of Representatives. So great was its power, the opposition wished longer time to rally against the vote for an appropriation to carry the treaty into effect. It was postponed several days, yet no one attempted to answer the great speech of the occasion.

This treaty was bitterly opposed by the Southern delegation. Only four south of the Potomac voted for it,—Hancock, of Virginia, Grove, of North Carolina, Smith and Harper, of South Carolina. It was among the New England men that it received its support, four of the delegation only voting against it—Smith, of Vermont, Dearborn, Syman, and Varnum, of Massachusetts.

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\* Hild. Hist. of U. S., second series, vol. i. p. 614.



1796. In February the treaty was returned in the form in which it had been sent to the British Ministry, properly ratified. Washington immediately issued his proclamation requiring its observance; a copy of the proclamation was sent to each House of Congress. The Republican party in the House had denied the authority of the President to negotiate this treaty, and great dissatisfaction was exhibited because the proclamation had been issued before the House expressed its sense on the obligations of the treaty.

March 2. Livingston, of New-York, offered a resolution requesting the President to transmit a copy of the instructions sent to Jay, along with the correspondence and other documents appertaining to the treaty. A violent debate ensued; after some days the resolution passed by a vote of 57 to 35. The President refused to send the papers. His reason was that the House of Representatives had no constitutional agency in making treaties, and consequently were not entitled to the papers. In his communication, he mildly concluded by saying,—“A just regard to the Constitution and the duty of my office, under all the circumstances of this case, forbid a compliance with your request.” The majority poured forth great indignation upon the reception of this answer. The spirit of opposition manifested by the House was imbibed to some extent by the people.

Public meetings were held throughout the country, yet the treaty, though somewhat objectionable, was generally received with approbation, and the course of Washington approved.

After the reception of the President's answer, the debate in the House became exceedingly interesting and animated. The most attractive and distinguished speech on the occasion, was delivered by Fisher Ames, fearlessly sustaining the President, and defending the treaty. With him were Griswold, R. G. Harper, Sedgwick, and Wm. Smith. The opposition, equally distinguished for ability, was conducted by Livingston, Madison, Gallatin, and Giles.

The question was taken in committee of the whole, and was determined by the casting-vote of the chairman in favor of passing the necessary laws for the execution of the treaty, and the resolution was finally carried by fifty-one voting in the affirmative, and forty-eight in the negative.\* In refer-

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\* Marshall, vol. ii. p. 384; Hild. Hist. U. S. second series, vol. i. p. 615; Bradford's Stat. Man.

ence to this treaty, which was in such imminent danger in the House, there can be no doubt as to the propriety of its being sustained. That serious objections existed to it is not denied; yet it was almost the salvation of the Government, and was better than the alternative of a protracted war. The Senate proceeded with great caution, occupying eighteen days in its consideration, and then it passed by only a constitutional majority. Washington's deliberation and consultation with the cabinet were well matured, he being occupied several weeks upon it before he gave it his sanction. It appears to have been considered as strong objections to the treaty in the first place, that it did not provide with sufficient decision for the prevention of impressments from American merchant-vessels. In the second place, notwithstanding the objection previously made by several of the States, it recognized the obligation to pay the debts due to the refugees. In the third place, the restrictions upon the trade of the United States with the British West Indies were injurious to our navigation and commerce: vessels under one hundred tons only were permitted to enter their ports. And lastly, there was not so full and fair a commercial reciprocity as we were justly entitled to.

Upon a full comparison of the advantages of this treaty and our diplomatic situation at the time, there can be but little doubt that the President, the Senate, and the excellent and illustrious negotiator, are fully justified in the eyes of posterity, and that the nation should be thankful for so honorable an escape from a conflict that might have proved fatal to the hopes of young freedom in republican America. The position of the House was the most alarming feature attending this diplomatic negotiation. The Constitution very judiciously placed the treaty-making power with the President, "by and with the advice and consent of the Senate," and the concurrence of two-thirds of the Senators present.

The Constitution also forbids the withdrawal of money from the treasury, "but in consequence of appropriations made by law." If an injurious treaty is made, though the House has no agency in its negotiation, it cannot be denied that it has not authority under the Constitution to defeat it, if thought proper to withhold the necessary appropriation.

A recent historian appears inclined to put it upon the

ground of an extra constitutional and revolutionary right.\* It is evident, however, that his opinion does great violence to the Constitution, whilst it throws an unjust odium upon the honest fearlessness of the representative body, whose duty it is to guard the treasury, and whose sentiments are more apt to be the reflected will of the people.

The question of internal improvements by the General Government, has always been of absorbing interest to the people of the United States. The Constitution is limited in expression in reference to the extent of the power conferred on Congress. Parties have always differed more in reference to the extent to which the power reaches than upon its constitutional existence: parties have differed more intensely upon this subject than any other; and in a critical examination of their position, it has been found to be very much controlled by geographic locality and sectional interest.

That a limit must exist to its exercise none have denied; that it will ever be finally settled, none will ever believe.

The exercise of this power has been claimed under several provisions of the Constitution: the power to establish post-offices and post-roads; the power to declare war; to regulate commerce with foreign nations and among the several States, and with the Indian tribes; the power to pay debts and provide for the common defence and general welfare of the United States; to make all laws which shall be necessary and proper for carrying into execution all the powers vested by the Constitution in the Government of the United States, or any department or officer thereof; to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; to provide and maintain a navy; to raise and support armies; to exercise exclusive authority over all places purchased, by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings. These are some of the powers delegated to Congress. The provisions chiefly relied upon are those which give power to regulate commerce with foreign nations and among the several States and with the Indian tribes, and to provide for the common defences and general welfare.

It is not my purpose, at this time, to enter minutely into

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\* Hild. Hist. U. S., second series, vol. i. p. 586.

the history of internal improvements by the General Government. It will, however, throw much light upon this subject to refer back to the very beginning of our Government under the present Constitution; to the very first Congress, composed of men who had aided in framing that Constitution, and to observe their actions upon this branch of legislative power. In 1789 was passed the first "act for the establishment and support of light-houses, beacons, buoys, and public piers," which was approved by George Washington.\*

In passing on to the period at which I previously digressed in noticing this topic, it appears that James Madison offered in the House, a resolution for an inspection and survey of the great post-road from Maine to Georgia. The suggestion was made that this system might beneficially extend to all parts of the Union, for which purpose a committee was appointed to bring in a bill; but sectional jealousy prevented any definite action on it, especially by the Northern and Eastern members, who thought it a scheme on the part of the South and the new Settlements to obtain roads for their benefit at the expense of the Union.† Jefferson, who addressed a letter to Madison at this time, was very much opposed to the resolutions.

In the House of Representatives, Madison moved that the resolution relative to the survey of post-roads between the Provinces of Maine and Georgia, be taken up; which, being read, he observed that two good effects would result from the passage of the resolution; the shortest route from one place to another would be determined upon, and the stability of the roads would induce persons to keep them in repair. His speech was brief, and he did not appear to think it necessary to argue the constitutional bearing of the question. Baldwin was glad to see this business brought forward; the sooner it could be carried into effect the better. In many parts of the country there were no improved roads; nothing better than Indian tracks. Bridges and other improvements, are always made with reluctance; whilst roads remain in this state, because it is known as the country increases in population and wealth, better and shorter roads will be made. All expense of this sort indeed is lost.

1796.

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\* Hist. of Internal Improvements, vol. ii. p. 117 of Cong. Biography; Hist. of Cong. Washington's first term.

† Hild. Hist. U. S., second series, vol. i. p. 630.



It was properly the business of the General Government to undertake the improvement of the roads; for the different States are incompetent to the business, their different designs clashing with each other. It is enough for them to make good roads to the different sea-ports; the cross-roads should be left to the Government of the United States.

Bourne thought great good would result from the passage of the resolution.

Williams was opposed to it; he did not think it right for the revenues of the post-office to be applied to this bill. He acknowledged the propriety of extending the post-roads to every part of the Union; but he thought the House had better wait for the report of the committee to whom business relative to the post-office had been referred, and which was being prepared to be laid before the House.

After a few remarks from Madison and Thacher, the resolution was agreed to, and referred to a committee of five to prepare and bring in a bill.\*

This bill, owing perhaps to sectional jealousy from the Northern and Eastern members, did not pass.

In the future progress of this work the subject of internal improvements will be historically noticed. It should, however, be borne in mind that not only at an early period of our Government did this subject seem to arrest the attention of our National Legislature, but immediately after its commencement. At the very first Congress a law was passed making heavy appropriations for the establishment and support of light-houses, beacons, buoys, and public piers, which was approved by Washington, August 7, 1789. At a very early period the minds of political men seemed to have but little dread from the exercise of this power, for "committees on internal improvements" were appointed by Congress *eo nomine*.†

Besides many acts which passed the National Legislature during the first administration of the Government in reference to internal improvements, we are enabled to learn the general policy of the Government at this time by reference to two reports made by Oliver Wolcott, the Secretary of the Treasury. The first bears date March 16, 1796.

\* Elliott's Debates, vol. iv. p. 446.

† History of Internal Improvements, Biographical and Political History of Congress, vol. ii. p. 109.

It is in answer to a memorial referred to him by the House of Representatives from a number of influential merchants in the city of Philadelphia, setting forth the great and increasing danger to the trade of that city in consequence of the insufficiency of the public piers in the river Delaware, and praying that an addition may be made to their number.

The report, appreciating the propriety of an appropriation, recommends a sum not exceeding sixteen thousand dollars for the erection of four additional piers.

On the 13th of April, 1798, the same officer, to whom the House had referred similar memorials, recommends an additional appropriation of sixty thousand dollars for similar objects. In reference to which Wolcott thus expresses, as far as we can understand, the universal sentiment of the Executive, as well as the voice of Congress.

"A question," said he, "arises, whether expenses of the nature proposed ought to be *general*, or whether they ought to be defrayed by a duty imposed on the tonnage of vessels employed in the river Delaware. On this point it is respectfully suggested that though it may be difficult to form general rules by which to determine in all cases what establishments ought to be supported at the expense of the United States, and that though it is certain that many bays, rivers, and harbors of this country are susceptible of improvements which it would be inexpedient for the Government to undertake, especially at present; yet it is equally certain that national interests of the first importance are concentrated in the principal commercial cities which cannot, consistently with public convenience, be submitted to the direction of local policy.

"The Secretary, whenever this subject has been presented to his view, has considered the river Delaware, below Philadelphia, as entitled, in respect to establishments for the security of navigation, as any part of the coast adjoining to the high sea.

"The proposed piers will be useful to foreign vessels, and to American vessels from all the States. Commercial ports upon the river, within the jurisdiction of these States will, in proportion to the extent of their trade, be nearly as much benefited by the establishments which are desired as the port of Philadelphia."\*

During the administration of Washington the diplomatic

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\* State Papers, Commerce and Navigation, vol. i. p. 390.

relations between the United States and France reached a high degree of excitement and interest, threatening even the peace of the two countries.

Jay's treaty and the proclamation of neutrality were alike regarded with much disfavor by the French Government. Several decrees were issued, by virtue of which American vessels were confiscated in direct violation of the treaty of commerce. The course pursued by the American Minister at Paris, James Monroe, met the disapprobation of Washington, who thought him not sufficiently energetic in urging the protection of American rights. Monroe was recalled and Charles Coatsworth Pinckney appointed as his successor. Monroe was one of the first diplomatists of his age, and justly popular in France when he left, as he ultimately became in the United States.

Washington left the French difficulties unsettled; and, in order to present this question connectedly, I shall defer its consideration until the administration of John Adams, at which time it was permanently adjusted.

On the 7th of December, 1796, Washington addressed to both Houses of Congress his last Annual Message. In this, an able and dignified State paper, he presented a comprehensive view of the interest and condition of the country. From extensive experience and the most mature deliberation, he fully comprehended, in many respects, the true interest and future policy of the growing Republic. With an eye to commerce, he says,—“To an active external commerce, the protection of a naval force is indispensable. This is manifest with regard to wars in which a State itself is a party. But besides this, it is in our own experience that the most sincere neutrality is not a sufficient guard against the depredations of nations at war. To secure respect to a neutral flag, requires a naval force.” In reference to the permanent establishment of a navy, he says,—“Will it not then be advisable to begin without delay to provide and lay up the materials for the building and equipping of ships of war, and to proceed in the work by degrees, in proportion as our resources shall render it practicable without inconvenience, so that a future war of Europe may not find our commerce in the same unprotected state in which it was found by the present?” He urges upon Congress the necessity of protecting our domestic manufactures. He also recommends the establishment of a national university and a military academy.

Each House expressed a high admiration of the policy of the Administration, with an equal regard and admiration for the man. Yet, notwithstanding the unparalleled popularity of Washington and his administration, the answer which Congress proposed making to the address of the President did not pass the House without opposition and a warm debate. The answer of Congress embraced the following sentence,—“For our country’s sake, for the sake of republicanism, it is our earnest wish that your example may be the guide of your successors, and thus, after being the ornament and safeguard of the present age, become the patrimony of our descendants.”

A motion was made to strike out this paragraph, which received the support of twenty-four members, which was almost a third of the whole number voting. Among them were Giles, Gallatin, Andrew Jackson, Livingston, Mason, Swanwick, and Varnum. Upon the final passage of the address, Blount, of North Carolina, called the yeas and nays; twelve members only voted against the address upon its passage, conspicuous among whom were Giles, Andrew Jackson, Livingston, and Mason.\*

In reference to that clause in the answer quoted above, Giles said,—“If he stood alone in the opinion, he would declare that he was not convinced that the administration of the Government for these six years had been wise and firm. He did not regret the President’s retiring from office. He hoped he would retire and enjoy the happiness that awaited his retirement. He believed it would more conduce to that happiness that he should retire than if he should remain in office.†”

Washington communicated to Congress the condition of our relations with France. This paper Jan. 19,  
1797. throws much light upon the policy of the Administration, and fully justifies the position of neutrality which we were compelled, by every consideration of interest, to maintain.

The administration of George Washington was now rapidly drawing to a close; it terminated on the 4th of March. The retiring President witnessed the inauguration of his successor, and soon left the seat of Government, for the quiet re-

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\* Hild. Hist. of U. S., second series, vol. i. p. 697. Pitkin.

† Stat. Man., vol. i. p. 93. Pitkin.



treat of his country home upon the picturesque banks of the Potomac. Covered with military renown, and equally distinguished with civil honors, he sought that repose amidst the shades of retirement he had so long desired. His retiring star, resplendent in fame, was enriched in the evening of his days by a nation's love and gratitude. His character, pure and spotless as perhaps has ever fallen to man, was at times the subject of violent vituperation; yet it may almost be said that this great man left the Presidential chair with a "conscience void of offence toward God and toward man."

The policy of this Administration was national, comprehensive, constitutional, and just; looking to the interest of the entire country, sectional feeling and sectional tendency found no favor in the eyes of Washington, whilst he carefully nurtured every interest of the Government.

His was, perhaps, the most arduous task that has yet devolved upon the incumbent of the Presidential chair, from the great difficulties to be encountered in the adaptation of such measures as would place this great republican ship upon the true and safe track of success and national advancement, from which it could not be shaken either by storms from within or without. His domestic policy was the protection of the great interests of manufactures, agriculture, and commerce; the support of the latter, he saw, required the establishment of a navy, which he warmly advocated. He was always urgent, in every constitutional way, to pay off the public debt, so justly called the "price of liberty;" and whilst the plan pursued was objected to by some, yet all objections soon passed away in its ample security and ultimate payment. Under this Administration, commerce, though subject to many hinderances and obstructions, reached an unexampled prosperity; our tonnage was nearly doubled, the products of agriculture found a ready market; exports increased from nineteen millions of dollars to more than fifty-six millions; the imports in nearly the same proportion; whilst the revenue from imports exceeded the most sanguine expectations.

His foreign policy was almost universally approved, which was strict neutrality in reference to all the wars that devastated Europe, with an absolute freedom from entangling alliances with any nation.

The greatest difficulty that he encountered was in reference to France, and none can deny that he was not right in the course he pursued during the violent and vindictive war that

raged between her and England. To maintain the friendship of the one and avoid the enmity of the other, required the greatest caution and diplomacy; whilst at home he was equally successful in resisting the popular clamor in behalf of France, and suppressing the burning indignation often manifested against England.

The most philosophic, the most eminent and valuable State paper ever issued by this American statesman, was his Farewell Address to the people of the United States, bearing date Sept. 17th, 1796.

Here he reviews the grand and multifarious interest of this country with a comprehensive and practical philosophy, exhorting his countrymen, as a dying, pious father would his own children, to pursue the paths of virtue; with a feeling and an interest never to be forgotten, he made and published this, his last political will and testament, for a people he had long and faithfully served and dearly loved.

With filial reverence ought the people of the United States to cherish this last great production of their national benefactor; especially ought all to heed the forcible and practical advice to hold together in brotherly love and kindness.

The manner in which he deprecated the formation of parties upon geographical distinctions, spoken as it was with prophetic vision, is commended to future statesmen as a cardinal point in the political philosophy of this country.

To guard and protect the Union appears to have been among the most cherished objects of his ambition and his pride. "The *North*, in an unrestrained intercourse with the *South*, protected by the *equal laws* of a common government, finds in the productions of the latter great additional resources of maritime and commercial enterprise and precious materials of manufacturing industry. The *South*, in the same intercourse, benefiting by the same agency of the *North*, sees its agriculture grow and its commerce expand. Turning partly into its own channels, the seamen of the *North* find its particular navigation invigorated; and while it contributes in different ways to nourish and increase the general mass of national navigation, it looks forward to the protection of a maritime strength to which itself is unequally adapted. The *East*, in like intercourse with the *West*, in the progressive improvement of interior communications by land and water, will more and more find a valuable vent for the commodities which it brings from abroad or manufactures at home. The

*West* derives from the *East* supplies requisite to its growth and comforts, and, what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of the indispensable outlets for its own productions to the weight, influence, and future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as one nation.”\*

In this picture is presented a beautiful and forcible view of the unity of interest which this country affords, each section contributing to the welfare of the others, and each mutually dependent and mutually interested in preserving a unity of interest that shall pervade the whole, and bind every section in indissoluble ties. It is this happy combination and intertwining of interest, the same now as when Washington wrote, the same through all time, that ought to render the United States indissoluble, and will, if each section will but remain (as in 1796) content to perform for itself that particular agency which, in securing its own interest, will, in the operation of the grand machinery of the Union, work in harmony with the whole, and for the good of all.

If this general harmony of interest is left to its own free untrammelled operation, each to move in its appropriate sphere, each revolving around the Constitution as a source of common life and light, then, like the great planetary system, may this Union be as permanent; but if left to an unsupported and waning veneration for a written Constitution, then passion, and prejudice, and vice, may sunder it at any moment. Honesty and fairness of purpose, firmness and morality, should enliven the spirit of the Government, and actuate the conduct of the people to give force, vitality, and permanence, to a republican Government.

No one was ever more deeply imbued with human virtue than Washington; no public character acted more in accordance with this standard, or required it more rigidly from all the officials with whom he was politically associated.

In the exercise of the executive powers, Washington exhibited his strong tendency to the Federal doctrine—indeed, he was a Federalist; yet the most ultra Democrat can point to no measure of this Administration extending the powers of the Executive or of Congress beyond a fair and legal construction: and the Constitution came from the hands of

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\* Washington's Farewell Address.

Washington purer and sounder than it has ever been kept by any of his successors.

That Washington was a great man, and eminent in his greatness beyond any character of the age in which he lived, none can deny; yet it is difficult to single out any one feature, or designate the particular character of this greatness. As a warrior many have surpassed him in bold and brilliant achievements upon the battle-field; as a statesman he has been surpassed by others in great and comprehensive efforts, by which empires have been brought down in humble submission at the feet of daring genius. History cannot class him with Cæsar, or Alexander, or Bonaparte, as a brilliant warrior; with Pitt, or Talleyrand, or Alexander Hamilton, as a statesman; yet there was a harmonious union of the qualities of the head and heart, which made him in the field, in the cabinet, and as a man, greater than them all, and above any other man whose name adorns the historic page. His career was the most successful of any person with whose life we have been made acquainted; and the most brilliant results followed that success. If we view him at the head of the army, we find his great element of success was the result of cool, cautious care, and judgment, which were also the faculties that prevailed in the cabinet. If it be possible to single out the constituents of that character which has been the pride of the civilized world, we would point to that eminence of judgment which made him always successful, and that purity of purpose which won the admiration of man on all and every occasion.



## CHAPTER IV.

## THE ADMINISTRATION OF JOHN ADAMS.

JOHN ADAMS was the second President of the United States. A short personal history of one whose life, character, and passion are so intimately interwoven with the infant struggles of American liberty, cannot fail to interest the reader. He was born in that part of the town of Braintree (Massachusetts) now called Quincy. His ancestor, Henry Adams, to whom he was related in the fourth degree, had settled in Massachusetts about the year 1630, having fled from Devonshire, England, to escape the persecutions of that age. In 1751 John Adams was admitted a member of Harvard College; four years afterwards he graduated. He studied law with James Putnam, and was admitted to the bar in the county of Suffolk, in 1758. He practiced in his native town for a while under the patronage of Gridley, at that time Attorney-General for the Province, and by his advice removed, in 1766, to Boston; here he won much distinction as a faithful lawyer and an ardent and zealous advocate. The period of his early manhood was marked by excitement; the spirit of politics was intense, and this served as food for the genius of young Adams. His attention was early drawn to politics. He had been but a short time from college when he wrote to a friend, October 12, 1755, from which the following is extracted:—

“Soon after the Reformation a few people came over into this New World for conscience’ sake. Perhaps this apparently trivial incident may transfer the great seat of empire into America. The only way to keep us from setting up for ourselves is to disunite us. *Divide et impera*. Keep us in distinct Colonies, and then some great men in each Colony, desiring the monarchy of the whole, will destroy each other’s influence, and keep the country in *equilibrio*.”

In reference to this it was that the statesman Webster

said,—“It is remarkable that the author of this prognostication should live to see fulfilled to the letter what could have seemed to others, at the time, but the extravagance of youthful fancy. His earliest political feelings were thus strongly American, and from this ardent attachment to his native soil he never departed.”

In 1770 he was chosen a representative from Boston, in the legislature. An interesting trial took place during this year, at which Adams appeared as counsel for the defence; though not the only one, he was relied upon chiefly by the defendants. It was the trial of Captain Preston and some British soldiers, who fired, under his command, upon the citizens of Boston. Whilst a member of the Assembly he was bold in his opposition to the royal governor, who at that time was the famous Hutchinson; nor was his pen inactive against the Government of the Mother Country. In 1774 he was elected a member of the Council, but his election was negatived by Governor Gage. It was at this time that he published his spirited essays called “*Nov Anglus*,” in reply to Sewal, the Attorney-General, who had written a series of papers signed “*Massachusitensis*.” The same year he was appointed a member to the Continental Congress; in that body he was at once recognized as among the most talented, ardent, and efficient advocates of the rights of America. He was again appointed to Congress, which met in May, 1775. At this time he seconded the nomination of Washington as Com-  
mander-in-chief of the American army. Notice  
has already been made of the patriotic services he rendered in 1776 as one of the advisers and supporters of the Declaration of Independence, being one of the committee of that body which reported the Declaration. He was deputed during this year, along with Franklin and Edward Rutledge, to treat with Lord Howe for the pacification of the existing difficulties between England and the Colonies. At this time he was offered the seat of Chief-Justice of the Supreme Court of Massachusetts, but declined.

He was this year appointed a Commissioner to  
the Court of France in the place of Silas Dean,  
who was recalled. Adams did little during his stay in France. He sailed in February, 1778. On his arrival he found that a treaty of amity and commerce, also a treaty of alliance, had been signed. Dr. Franklin received from Congress the ap-  
1777.

pointment of Minister Plenipotentiary; and Adams returned home in 1779.

He accepted a seat in the Massachusetts Convention for framing the new Constitution. Whilst a member of this body he submitted a plan to the committee, of which he was a member, appointed to report a Constitution; the plan of Adams was adopted in all its important features. He was a member of this Convention when Congress determined to appoint a Minister Plenipotentiary to Great Britain, for the purpose of negotiating a peace. Adams received the appointment on the 29th of September, 1779, and sailed in the French frigate *La Sensible*, in November. He landed at Ferrol, in Spain, and arrived in Paris, February, 1780. He remained until August, at which time he repaired to Amsterdam. He was instructed to procure loans in Holland, and afterwards received power to effect a treaty of amity and commerce. He effected a loan in 1782 for eight millions of guilders, and also negotiated a favorable treaty with Holland, in which the United States were recognized by that nation as free, sovereign, and independent.

In 1781 he was associated with Franklin, Jay, Lawrence, and Jefferson, to conclude treaties of peace with the several European powers. The definitive treaty of peace was signed by Adams, Franklin, and Jay in September, 1783. In January, 1785, Congress appointed Adams Minister to the Court of Great Britain; his reception was courteous, yet the British Ministry were cold and formal. The old feeling of hostility had not subsided and he was unable to negotiate a commercial treaty. Yet Adams rendered in other respects valuable and permanent services to his country. His assistance was of great importance in negotiating other treaties, especially with Morocco and Prussia. Whilst abroad as Minister to the British Court, Adams published an eloquent and able vindication of the American form of government, in answer to several essays and strictures from the pen of Turgot, the Abbé de Malby, Dr. Price, and others. After the publication of this work he asked and obtained permission to return home, having been absent more than eight years.\*

It is but justice to Adams to say that during the period of

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\* The above history of Adams, previous to his election for the Presidency, is taken chiefly from the Stat. Man. The reader will find it accurately stated and well condensed.

his early manhood, and to the time of his election to the Presidency, no one rendered more important services to his country, or labored with more patriotic assiduity in the cause of liberty. At home and abroad his life was one continued service; either State or National Legislature, or some important diplomatic agency consumed his time, and brought into active employment his talent, virtue, and firmness. Upon his return from Europe he was placed on the ticket with Washington, for President, and was elected Vice-President each time.

In the language of J. E. Sprague, of Massachusetts: "Not a hundred men in the country could have been acquainted with the labors of Mr. Adams; they appeared anonymously or under assumed titles; they were concealed in the secret conclaves of Congress, or the more secret cabinets of princes. Such services are never known to the public; or if known, only in history, when the actors of the day have passed from the stage, and the motives for longer concealment cease to exist. As we ascend the mount of history, and rise above the vapors of party prejudice, we shall all acknowledge that we owe our independence more to John Adams than to any other created being, and that he was the great leader of the American Revolution."

Adams wielded an able and fluent pen, which was often used in defence of the American system of government. In 1790 he published, in the "*Gazette of the United States*," his best and most celebrated production,—his "*Discourses on Davilla*." They were but a continuation of his "Defence of the American Constitution;" they were exceedingly popular and gave him a high literary position; added to the fame he had acquired as a statesman and diplomatist.

The administration of Adams will be noticed in another place. Great praise is due, and has been properly accorded to him; yet the truth of history forbids an acquiescence in the unbounded adulation he has received from the pen of his eulogists. He was, among the leaders of the Revolution, a bold, able, and conspicuous champion; he was of great virtue and good intention as long as he was in a subordinate station. The more, however, the ambition of Adams became gratified, the more intense it grew. Whilst under the check of his constituents at home, or subject to the restraint of the Government when abroad, his passions were kept within proper bounds; but when elected to that office beyond which even



maddened ambition dare not grasp, save at the peril and shipwreck of the hopes of its unfortunate victim, Adams, as if dazzled by the height of his station, fell a just martyr to his passions, illustrating to the letter, the remark of that keen observer of events and men, Dr. Franklin, who said, speaking of Adams,—“I am persuaded that he means well for his country, is always an honest man, often a wise one; but sometimes and in some things absolutely out of his senses.”

After Adams retired from the Presidency, he lived a quiet and unexcited life; interesting himself only as a passive observer of political events, and dispensing the elegant hospitalities of his mansion to the frequent visits of distinguished and learned men, occasionally enlivened by visits from his enlightened son, whom he lived to see elevated to the Presidency. His last public engagement was in the year 1820, as member of the State convention to revise the constitution of Massachusetts. On the 4th of July, 1826, John Adams expired, full of years and clothed in the honors of a life given to the most difficult and exalted service of his country. The fiftieth anniversary of that independence he had struggled with a masterly spirit to establish, lavished alike upon Adams and Jefferson a portion of that honor as their funeral rite which the freemen of America were then offering up as a nation's gratitude for the consummation of their labors and their hopes.

Mr. Webster relates a characteristic remark of John Adams, upon whom he called the day he delivered his celebrated speech upon the laying of the corner-stone of the Bunker Hill Monument; when, inquiring after the old man's health, he remarked,—“I am not well; I inhabit a weak, frail, decayed tenement, battered by the winds and broken in upon by the storms; and, from all I can learn, the landlord does not intend to repair.”

A short time before his death, being asked to suggest a toast for the approaching celebration, he replied,—“I will give you independence forever.” John Adams was of middle stature, inclined to corpulency. He was of an excitable temperament, with an uncompromising will, which often carried him to improper lengths, even beyond the reach of palliation; yet he was of pure morality, and a firm believer in the Christian religion. In contemplating his patriotism, his untiring zeal and devotion to what he considered his coun-

try's interest, posterity may be inclined to say—"his were virtues that excused his faults."

After the adjournment of Congress, the third election of President engaged and excited the interest and attention of the citizens of the United States. The two great parties of the country were now, for the first time, openly arrayed against each other. The one under the banner of Federalism; the other under the folds of that name which, though then humble, was destined to wave in triumph throughout this Union. By the Federalists John Adams and Thomas Pinckney were supported as President and Vice-President. The strength of the Republican party was exerted in behalf of Thomas Jefferson for President; but the party was divided in reference to a Vice-President. Each elector voted for two persons. The electoral votes amounted to 138, and were divided as follows:—John Adams, 71; Thomas Jefferson, 68; Thomas Pinckney, 59; Aaron Burr, 30; Samuel Adams, 15; Oliver Ellsworth, 11; George Clinton, 7; John Jay, 5; James Iredell, 3; George Washington, 2; J. Henry, 2; S. Johnson, 2; Charles C. Pinckney, 1. 1796.

John Adams and Thomas Jefferson were therefore elected; the first President, the latter Vice-President, for four years from the fourth of March, 1797; on which day John Adams and Jefferson took their respective oaths of office in the presence of the heads of departments, many members of Congress, foreign ministers, and a large assemblage of people; John Adams having, before taking the oath, which was administered by Chief-Justice Ellsworth, delivered his Inaugural Address. He was attired for the occasion in a full suit of pearl broadcloth, with powdered hair, and being in his sixty-third year, presented a dignified and venerable appearance.

The President continued in office the same cabinet which Washington had left, namely:—Timothy Pickering, Secretary of State; Oliver Wolcott, Secretary of the Treasury; James McHenry, Secretary of War, and Charles Lee, Attorney-General. They were all of the Federal school. There was no Navy Department; this bureau was not established until 1798, which office was first occupied by Benjamin Stoddard, of Maryland—being first offered to George Cabot, of Massachusetts.

After making such appointments as the President thought necessary, Congress having adjourned, the first step of importance taken by John Adams was the assembling of Con-

gress in special session, May 15th, 1797. The object in calling Congress together, as appeared by the Message of the President of May 16th, 1797, was to take into consideration and advise upon the vexed and yet unsettled questions between the United States and France. France had refused

to receive our Minister; and the difficulties which

beset the administration of Washington accumulated on the hands of John Adams. After a recapitulation in this Message of the manner exhibited towards us by France, the President speaks plainly to Congress in reference to the position this country must occupy. "Such attempts," says he, "ought to be repelled with a decision that shall convince France and the world that we are not a degraded people, humbled under a Colonial spirit of fear and a sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of national honor, character, and interest. I should have been happy to have thrown a veil over these transactions, if it had been possible to conceal them; but they have passed on the great theatre of the world, in the face of all Europe and America, and with such circumstances of publicity and solemnity, that they cannot be disguised, and will not soon be forgotten." It was the anxious desire of the President, whilst he was determined to uphold and defend the dignity of the United States, to settle amicably the difficulties that existed; he informs Congress of his intention to make another effort at negotiation. In this Message he recommends the navy to the attention of Congress, as well as a revision of the laws concerning the arming and equipping of our militia. There was a decided Federal majority in each branch of the National Legislature; Jonathan Dayton, of New Jersey, was re-elected Speaker of the House of Representatives. Each House approved the course of the President, though a small minority were anxious to cut short all negotiation and defend at all lengths the honor of the country. A majority in Congress, as well as the Administration, being desirous of promoting and maintaining a neutral position in reference to European affairs, passed a law in June, 1797, to prevent American citizens from fitting out or employing privateers against nations at peace with the United States.

At this special session Congress provided a limited and small naval force, which was not satisfactory to the President. In order to provide means for the extra expenses to be

incurred on account of our national defence, duties were imposed on stamped paper and parchment. An additional duty was laid on salt, with a drawback allowed on salted provisions and pickled fish exported. The President, in pursuance of his cherished intention to adjust the difficulty between this country and France, appointed, with the advice and consent of the Senate, Charles Catesworth Pinckney, Elbridge Gerry, and John Marshall, Envoys to that Republic, with plenary powers. These gentlemen met at Paris in October, 1797, with great anxiety to execute their commission. The scenes which followed, and the circumstances which attended this attempt at negotiation, justly excited the indignation of every patriotic American citizen. It being my purpose to treat of the difficulties of the French question continuously, a further discussion of them is now dispensed with.

The second session of the Fifth Congress assembled in November, 1797, (the first session was a special one held in June.) The country presented to the consideration of Congress a critical condition, especially in connection with European affairs; our own diplomatic relations with France, as well as the neutral policy which justice and prudence demanded at our hands in reference to the turbulent and agitated affairs of Europe, were questions of great moment. The commerce of the country, though small, was yet a source of profit to our merchants and revenue to the Government; laws were passed for its protection and the maintenance of neutrality. In order to prepare for invasion, our sea-coast was protected by appropriations for fortifying Boston, Newport, New York, Baltimore, Norfolk, Charleston, and Savannah. The land and naval forces were increased, and a direct tax laid on real estate, for the purpose of meeting the increased expenditure of the Government. A law of Congress at this time was also passed, authorizing the negotiation of a loan, which was obtained at eight per cent. A majority of Congress rested under the apprehension that the French, overjoyed and bewildered even to madness by the success of their arms in Europe, might attempt to unfurl their victorious banner upon the shores of America. They had committed repeated depredations upon our commerce; decrees had issued from the Directory, authorizing the seizure of every American vessel having on board British products or goods, or sailing from British ports. Under these aggravations an indignant Congress, reflect-

Nov. 13,  
1797.

June, 1798.



ing the feelings of an outraged people, passed an act suspending all commercial relations between the United States and France and her possessions. Merchant-vessels were authorized to be armed by their owners, which saved our little commerce from much depredation. In May previous, provision had been made by our National Legislature, creating the office of Secretary of the Navy. The office, which should have been established at an earlier day, was rendered more necessary now on account of the increase of our navy. George Cabot was first appointed Secretary; but he declined, and Benjamin Stoddart, of Maryland, was soon afterwards appointed.

At this session of Congress a regular and permanent army was ordered to be raised, which assumed the name of the *Provisional Army*. The administration of John Adams was at this time very popular. The army was soon raised, and the President was likewise authorized to raise, arm, and equip twelve regiments of infantry, and to build or purchase or hire twelve vessels with twenty guns each, as an additional support to our young navy.\* These measures were warmly opposed by the Democratic party then in Congress; they constituted the opposition to Mr. Adams, and so great was the opposition that the army bill passed by a small majority. A large majority of the people, who continued firm and devoted to the Administration, sustained with enthusiastic zeal this patriotic effort of the President. The young men of the country, still fired by the spirit of the Revolution, and with a confident reliance upon the justness of their cause, rallied around the flagstaff of the Republic, and the army was soon organized. Robert Treat Paine wrote, at this time, the *Marseillaise* hymn of America, the celebrated and popular song of "Adams and Liberty." He and others delivered patriotic addresses over the country, and the President received letters animated by the warmest patriotism and burning with indignation towards France. The next step to be taken was to appoint and commission the officers of this army; a chief commander was to be appointed. Mr. Adams had never, in the course of his administration, a higher or more responsible duty to perform; yet he hesitated not. George Washington was yet alive, to whom it was tendered. He was then old; had served his country in youth, in manhood, and in age, and

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\* Acts of Congress, 1797; 8 Bradford; Stat. Man.

it was doubtful if he would accept. When the appointment was made, though full of honor and surrounded by those endearing domestic pleasures he so anxiously looked to and long had sought, he accepted the office of Lieutenant-General and Commander-in-chief. The same patriotism that warmed his bosom in 1775, the same love of country that urged him to accept the toilsome duties of Chief Magistrate in 1789, animated the veteran hero and statesman in 1798. Washington consented to take command on condition that his services should not be immediately required, and that no expense should be incurred, except for his table and household, while in service.

The event did not arrive which was to require Washington to take the field; in the course of the ensuing year a treaty was negotiated with France, which adjusted the unhappy difference between that country and the United States. The army was regularly officered, however, and in a short time could have been ordered to take active defence of the nation. General Hamilton, of New York, was the immediate commander, and next in rank to Washington; whilst the other principal military officers were C. C. Pinckney, of South Carolina, H. Knox, of Massachusetts, W. Washington, of South Carolina, John Dayton, of New Jersey, Ebenezer Huntington, of Connecticut, W. R. Davie, of North Carolina, A. W. White, of New Jersey, John Sevier, of Tennessee, and W. North, of New York.

The second session of the Fifth Congress was remarkable towards its close for the passage of two acts which have been engraven deeply upon the minds of the people of the United States, and serve to mark as an epoch in history, the setting sun of John Adams. On the 25th of June the Alien Law was passed. On the 14th of July Congress passed an act, entitled "An act in addition to an act entitled 'An act for the punishment of certain crimes against the United States.'" This latter act especially drew forth the indignation of the people, jealous of those rights which had cost so much toil and money and blood; this was the *Sedition Law*, the history of which I shall notice at another time. These were the last important acts of that memorable Congress, which adjourned on the 26th of July, 1798.

The election for members of the Sixth Congress had resulted in favor of the Administration. Upon the assembling of Congress in December, Theodore

1798.

1799.

Sedgwick, of Massachusetts, an able and distinguished member of the Federal party, was elected Speaker. The President delivered his third Annual Address; it was highly gratulatory to Congress upon the great prosperity that then visited the country; "the flattering prospects of abundance from the labors of the people by land and sea; the prosperity of our extended commerce, notwithstanding interruptions occasioned by a belligerent state of the world." The answers of the two Houses to the President's speech, expressed their satisfaction in reference to the course he had pursued.

On the 18th of December the melancholy intelligence of the death of General Washington was received. It was announced to the House of Representatives by John Marshall, of Virginia. Not only were the Senate chamber and Representative hall clothed in the sad habiliments of sorrow, but a deeper feeling of grief was manifested by the saddened heart of a sorrow-stricken nation, at whose birth Washington had stood as godfather, and whose progress had constantly felt his sustaining hand and encouraging voice.

At this session of Congress, which continued until the 14th of May, 1800, but little passed to deserve the remembrance of history. A bankrupt act was enacted, as well as additional acts for the defence of the country and the protection of commerce.

As has been stated, Mr. Adams appointed three Commissioners to proceed at once to Paris for the purpose of negotiating a treaty with the French. Napoleon was then first Consul, who, upon the arrival of the American Commissioners, immediately appointed three others to negotiate with them, of whom his brother Joseph was one. The United States were represented by William Vans Murray, Oliver Ellsworth, and William R. Davie, Governor of North Carolina. A treaty was agreed upon by the French Government in October, 1800; it was conditionally ratified by the Senate and President of the United States. The President was willing to ratify as originally approved by the Commissioners, so anxious was he to secure the treaty, and deeming the two articles which the Senate objected to as not sufficient to delay the treaty, especially when from the fickle character of the French people delay might amount to defeat; yet he yielded, and sent it back with only a conditional ratification. The treaty was approved and ratified, with the exception of two articles, by Mr. Adams in 1800. Mr. Jefferson afterwards

ratified these articles,—Mr. Vans Murray and Mr. Dawson, of Virginia, being appointed for that purpose.

The treaty related chiefly to the compensation the French Government should make for depredations on the commerce of the United States. Many objected to it as giving insufficient indemnity, especially for recent depredations.

Our diplomatic relations with the French Government during the latter part of General Washington's administration and the administration of Mr. Adams, while they are to a great degree interesting, are enveloped in much mystery and obscurity; yet enough is known to ascertain the exact bearing of French diplomacy during a greater portion of the period alluded to, as well as the wisdom, purity, and firmness of the American Government, and those employed at home and abroad to conduct the negotiations. It was this question, which threw the country upon the very verge of war with France, and occasioned a degree of excitement and party feeling which not only vented its spleen, and in a measure shook the administration of John Adams, but even brought forth the malignity of party spirit upon the administration of George Washington.

In the first Administration, marked as it always was by wisdom and purity, George Washington pursued a strict neutrality, and thus always advised in reference to the difficulties and wars that beset Europe at that period, and in which France was more interested and involved than any other nation. This policy offended France, who, unmindful of the peculiar character of the Government of the United States, as well as the relations then existing between this country and Great Britain, thought it the duty of our Government to befriend and sustain them in their perplexed and intricate relations with nearly all Europe. Often was the administration of Washington besought upon this point by the French Government. Earnest appeals were made which enlisted the sympathy of a large party in this country, especially those who had fought side by side with the valiant French soldiers who had assisted us in our late struggle for independence.

In 1793 citizen Genet arrived in this country as Minister from the French Republic. The spirit of jealousy which he imbibed from his own Government towards the United States, professing, as did his Government, to think that the United States were befriending the English in their difficulties with the French Republic, induced him to make many extravagant



speeches, as well as to be guilty of the most improper and violent conduct. He endeavored to involve us in war with Great Britain, which was doubtless the wish of France, for the twofold purpose of gratifying its spleen towards us and increasing the embarrassments of the English Government.\*

Among the many interferences of Genet, the most offensive was his issuing commissions to vessels of war to sail from American ports and cruise against the enemies of France. The President immediately issued his celebrated Proclamation of Neutrality, April 18th, 1793, which has been a guide and example to this nation ever since.

The French Minister, exasperated by this last decided public official act of Washington in reference to France, threatened to appeal to the people, and throw his cause upon the sympathy of those who yet remembered with fond gratitude the land of La Fayette and those brave Frenchmen who periled their every hope for America. He is said to have

introduced into the United States the Democratic societies which were formed about this period, after the manner of the Jacobin clubs of Paris. He had many disputes with General Washington, which, in connection with his entire conduct in this country, induced our Government to require his recall, which was promptly done.

During the continuation of Washington's administration, the diplomatic relations between the United States and France were entirely unadjusted. Upon the election of John Adams, they received his earliest and most assiduous attention. Monroe was recalled in 1796, on the groundless charge of delaying, or partially presenting certain statements and explanations which he was desired by the President to make to the French Government. It was supposed by many, who yet accorded to Monroe distinguished diplomatic talent and patriotism, that he was influenced by an irrepressible sympathy for the effort of the French nation to adopt the republican standard. The written history of the times fully sets forth the many depredations committed upon our commerce. The French Government had expelled our Minister, C. C. Pinckney, from their territory, with new orders for further depredations upon our commerce. In consideration of these indignities, John Adams assembled Congress in special session; he communicated the condition of affairs between the

May, 15,  
1797.

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\* Stat. Man., vol. i. 84.

two countries, and enumerated many causes of complaint; the constant depredations upon American commerce, the refusal to treat or negotiate concerning them, or to exhibit even common courtesy to our diplomatic agents.\*

Our Minister had been ordered to leave the territory of France, and threatened with the civil law, if he did not leave at once: these were great and alarming indignities. Yet the speech of the President of the Republic, in the language of the Message of John Adams, disclosed "sentiments more alarming than the refusal of a Minister, because more dangerous to our independence and union, and at the same time studiously marked with indignities towards the Government of the United States. It evinces a disposition to separate the people of the United States from the Government; to persuade them that they have different affections, principles, and interest, from those of their fellow-citizens, whom they themselves have chosen to manage their common concerns, and thus to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision that shall convince France and the world that we are not a degraded people, humbled under a Colonial spirit of fear and sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of national honor, character, and interest." This paper sustains the ground of neutrality pursued by the preceding Administration, with a renewal of the determination of the Government not to involve itself in the vortex of the European political system. The sentiments of this paper were promptly sustained by both branches of the National Legislature.† Whilst the President and Congress took the high and decided stand they did, no intemperance marked their proceedings, and the door might still be open for further negotiations. In conformity to his declaration of making further effort to sustain amicable relations and remove the difficulties that beset our intercourse with France, the President, with the consent of the Senate, appointed three distinguished citizens,—C. C. Pinckney, who was re-appointed, Elbridge Gerry, and John Marshall,—as Envoys, for the purpose of maintaining amicable relations with France, if "compatible with the rights, duties, interests, and honor of the American people." They were instructed "to seek peace and reconciliation by all means not incompatible with the honor and

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\* Adams's Special Message, May 16th, 1797.

† Bradford, 94.

faith of the United States, and without violating any national engagements, or consenting to any innovation on the internal regulations for preserving peace and neutrality, which had been deliberately and justly adopted, or surrendering the rights of the American Government."

These Envoys met in Paris, October, 1797. They were received with no better spirit than had been exhibited towards Mr. Pinckney when he represented the United States at the French Court. The occurrences which followed were in all respects the most novel and singular, as well as exciting, that have ever been brought to light amidst the variety and peculiarities of diplomatic history. They were presented to M. Talleyrand on the 8th of the same month, and doubtlessly used energy and promptness in the discharge of the duties devolved upon them. For the first time in the history of our foreign relations, was attempted that high-handed system of corruption that has too often stained and darkened the proceedings of European courts; not only evasion and equivocation, but the most direct principle of *bribery*. This, if practiced by courts of the Old World, could find no favor with the honest citizen Ministers of this Republic; and it was in answer to the propositions, as well as the demand for a *douceur*, that Pinckney exclaimed, in the fervor of his patriotism and with a blaze of indignation, "millions for defence, but not a cent for tribute!" which not only rang like the spirit of honest defiance in the ear of European diplomacy, but found a cheerful and welcome response in the breast of every American.

When the American Envoys were introduced to M. Talleyrand, they were informed that he was making a report for the Directory, on French and American affairs. They retired on that occasion without saying anything more in reference to their mission. The French Minister took no other official notice of our Envoys: they complained, as they had a right to do, of official disrespect. The French Minister replied, by a complaint that he had not been called upon by them since the first interview. This was not only discourteous, but unfair; when they were informed upon their first visit that the French Minister was preparing a report, they withdrew, not only with the understanding of an exchange of cards of hospitality, but that the report would be shown to them.

Z., who was at that time private secretary to the French Minister, and who turned out to be Mr. Hauteval, informed

them that as they had not been received by the Directory, the Minister of Foreign Affairs could not act with them officially. This might be true, but why hold out to them the belief that he would act and receive them, to the extent of his powers of official negotiations, before their recognition by the Executive Directory?

Z. had previously informed them that Talleyrand was not only favorably disposed towards the American Government, but had expected to see the Envoys in their private capacity. Were they in a private capacity to receive propositions from the Minister? Why the proposition of a *douceur*? Was this *ex-officio*, if the proposition had been favorably received?

Pinckney and Marshall excused themselves from visiting the French Minister, on the ground of etiquette. Gerry felt no such scruples; he had a previous acquaintance with Talleyrand, consequently he called upon him on an appointed day.\* Nothing of consequence or importance resulted from the interview of Talleyrand with Mr. Gerry.

October 18th, a gentleman called on General Pinckney, and informed him a Mr. X. was in Paris, that the gentleman had seen him, and that he might place great confidence in him. This was but to indicate to Pinckney that he might expect to see or hear something from Mr. X., who on the same day called upon Pinckney, desiring a private interview, which was immediately afforded him.

X. told him he was ready to make a proposition from M. Talleyrand, who was anxious to effectuate amicable relations with the United States. X.† informed Pinckney that the Directory, especially two members, (not naming them,) were very much irritated by the address of Mr. Adams at the opening of Congress, at its special session in May last, that they wished his language modified; and, he added, the Directory would require a large sum of money, at least fifty thousand pounds sterling; the money to be placed at the direction of M. Talleyrand, who was to have the disposal of it. At the same time, he said he did not communicate with M. Talleyrand directly, but through a third person and confidential friend, who turned out to be Y., Mr. Bellamy. Next day X. and Y. called on the Envoys; Y. said the Minister could not

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\* *Vide* Amer. State Papers, vol. iv. Diplo. Cor.

† X. was Hottinguer. Gerry divulged the names of Y. and Z.: Y. was Mr. Bellamy, Z. Mr. Hauteval. Amer. State Papers, vol. iv. p. 177.



see them himself, because they were not then received by the Directory, but that he was authorized to communicate certain propositions: and repeated nearly the same propositions that had been made by X., assuring the Envoys that the French Minister, who was possessed of enormous influence, would intercede with the Directory for the consummation of the treaty, and closed his conversation with the frequent remark,—“IL FAUT DE L'ARGENT; IL FAUT BEAUCOUP D'ARGENT.”

Whilst these very remarkable conversations were going on, Gerry, by appointment, held a conversation with Talleyrand. Talleyrand said the Directory had passed an *arrêté*, which he handed to him; it was almost tantamount to what the Envoys had learned from the conversation with X. and Y., with the alteration of the word loan.\* The artful and intriguing Minister of Foreign Relations was so inflated with the idea of a loan, as the price of peace, that he even entered into details to show the Commissioners how it might be done without the knowledge of England; the idea still hanging like an incubus upon his mind that this country favored and designed assisting England. The plan was, that it was to be paid in supplies for France; to be furnished after the war, at St. Domingo, in such things as France might desire.†

It appears by a letter accompanying the correspondence of the Envoys and Minister communicated to the Department of State, dated April 3, 1798, that the Minister supposed Messrs. Marshall and Pinckney had taken their congé by that time, a desire being intimated to that effect by the Minister's letters. Gerry answered that his colleagues expected to leave France, and that it was impossible for him to be the medium of communication or take any action which would be disagreeable to his colleagues; and moreover said,—“You have proposed, citizen Minister, the 5th or 7th of this decade for me to resume (*reprendre*) our reciprocal communications upon the interest of the French Republic and of the United States. To resume this subject would be unavailing, because the measure, for the reasons I then urged, is utterly impracticable. I can only then confer informally and unaccredited on any subject respecting our mission, and communicate to the Government of the United

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\* The reader is referred to Gar. Life of Ran., chapter xix. vol. i., and to Amer. Stat. Papers, Diplo. Cor., vol. iv.

† *Vide* Cor. of the American Envoys.

States the result of such conferences, being in my individual capacity unauthorized to give them an official stamp.”\*

Marshall and Pinckney left Paris soon after the 4th of April. Gerry remained a short time after their departure. Several unimportant communications were exchanged respecting the lengthy letter of the Minister (concerning which some misunderstanding existed) which throw, however, no light upon this subject. Gerry addressed a note to the Minister dated June 25, 1798, asking for such papers as were necessary to enable him to depart for the United States.

Thus terminated, in the most unsuccessful manner, this effort to bring about reconciliation between the United States and France. The friendly position and sentiments of Mr. Adams were manifest. It was equally clear to every one then, as history makes apparent now, that justice and right were on the side of the United States. There was an apparent desire on the part of Talleyrand to negotiate on terms of fairness, but with his accustomed art and duplicity, to which he directed his quick and powerful mind. In his willingness to negotiate, he yet denied what he knew to be true, and whilst he wielded at desire the action of the Directory in all affairs pertaining to his department under the Government, and appeared desirous that the Government should recognize the Envoys of the United States, yet they were not received. He appeared desirous to negotiate with these very men, and at one and the same breath made offers for negotiation and denied his power to do so. If the impure purposes of the French Minister had found favorable reception with the honest-hearted Envoys, the Directory would soon have received them, and the perfidious Frenchman would have had no hesitancy in recommending them. It is manifest what were his intentions, though proposed through the medium of the most mystic agency and in a manner new to the science of diplomacy. Language, said he on one occasion, was given to us to conceal, not to make known our thoughts. It was this talent for deceit and this policy that made him, perhaps, the most powerful and successful diplomatic agent ever known to the world. It was this talent and this policy that cheated Europe for years, and held her wisest statesmen in doubt and perplexity; and it was this policy that defeated

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\* American State Papers, vol. iv. p. 140.

every effort at negotiation between the Minister of Foreign Affairs under the French Directory and the wise, strong-minded, honest men, who represented the Government of the United States at the French Court.

The correspondence of the times and the page of just history will exhibit the one caught in that element in which he had previously excelled in cunning, avarice, and duplicity, whilst will be held up to the admiration of the world the firm patriotism and honest purpose of the other, that defied all threatening, and despised alike duplicity and avarice, fraud and bribery.

A popular outburst of indignation poured over the country when the dispatches were published, which increased in intensity when it was known that money had been exacted. The sentiment of Pinckney was responded to by every tongue, and every freeman was ready to prove that he would give "millions for defence, but not a cent for tribute."

I have previously related the preparation made by Congress in anticipation of war with France. The excitement became contagious; the majority of the people belonged to the war party, and few there were to oppose it. The rights and the dignity of the nation had been invaded, our national character insulted, whilst wrong and outrage were added to wounded honor, by a continued depredation upon our commerce. The peace-like temper of Adams yielded to the national spirit of the times, and whilst looking to the welfare and prosperity of his country, he yet hesitated not to make preparation to avenge her wrongs.

France had feared, though unjustly, a favorable inclination on the part of America towards England. Whilst this excitement was prevailing, that France might catch the sight, could be seen upon the brow of Americans the *Black Cockade* of England, an emblem of hostility to the *tricolor* of France; and persons were encouraged to wear it as the *American Cockade*. This may seem idle at this remote time. The actors have fallen one by one into the grave, and it has gone into history with the great men of its day; but the excited passion of an offended nation is never an idle feeling; its fervent development is never gasconade, but the evidence and the symbol of abiding and determined patriotism.

July, 1778. It was determined by Congress that the treaty made with France in 1778, which had been recognized on our part, and faithfully obeyed for ten years, was

no longer obligatory upon the Federal Government, in consequence of the violation of the treaty on the part of France, and the oft-repeated depredations inflicted upon American commerce by that nation. This was a most important step for France. Among the most cherished stipulations of this treaty was a guaranty of the French possessions in America. The preamble to the act of Congress was in the following language:—"Whereas, the treaties concluded between the United States and France have been repeatedly violated on the part of the French Government, and the just claims of the United States for reparation of injuries committed have been refused, and attempts to negotiate an amicable adjustment of the complaints between the two nations *have been repelled with indignity*; and there is, by authority of the French Government, still pursued against the United States a system of predatory violence, infracting the said treaties, and hostile to the rights of a free and independent nation, therefore," &c.

This was justly considered a violation of the Constitution and a violent assumption of power on the part of Congress. It presents the melancholy spectacle of the early disposition of the majority to violate that sacred instrument, which each and every member of the General Government had sworn to obey; whilst history has proved that this was but an initiatory step to that ruthless disregard of the Constitution which has so often blackened the record of party questions, and stained indelibly the character of many of the most prominent men of the United States.

It was contended by the majority that the Constitution did not forbid the *Legislature* from abrogating a treaty. Nor does it; yet none will say Congress can do those things not prohibited by the Constitution. It was contended this treaty had been frequently violated by France; the violation of treaties is a *casus belli*; and as Congress could declare war, which will always amount to an abrogation of a treaty, that it might directly do that which it might indirectly effect. Yet they seemed to forget that a state of war necessarily destroys all treaties among hostile nations, and that its abrogation was in accordance with the doctrine of the law of nations. This treaty, the majority said, had been made by Congress under the Articles of Confederation, which were then no more; yet it was forgotten that we stood pledged to fulfill with good faith



the works of the Articles of Confederation, from whose loins the Federal Constitution had sprung, and whilst the form of our Government had been modified and remodeled, yet the nation and the people were the same. Congress can do nothing but by explicit grant contained in the Constitution, or some power implied as necessary to carry out some specified grant. It is impossible even for the treaty-making power to destroy a treaty, with any show of reason or right, on the grounds that it can make the treaty, and therefore it can unmake at will what it has made; a treaty may be annulled by consent of contracting parties, it may be abrogated by a *status belli*; but the attempt to set it aside by either contracting party, without the consent of the other, is bad faith and an unmanly retaliation. On the part of the United States there existed this other insuperable objection; no authority could be found in the Constitution for any or all the departments of Government to abrogate a treaty.

This last act of the United States Congress appeared for a while to render negotiation impossible. The French Government felt highly incensed, and multiplied and aggravated the wrong and injury the United States had received at her hands. The French people were surprised and astonished at the movement of the Administration, for they had placed over-confidence in the power of the opposition party, and were utterly unable to comprehend the position of Mr. Adams, who, whilst sanctioning the measures of Congress, was at heart ardently devoted to the peace party, as his subsequent effort fully exhibits.

Every feature seemed adverse to negotiation; exasperation acknowledged no limit. The United States frigate  
 Feb. 9, 1799. Constitution, of thirty-eight guns, under command  
 of Commodore Truxtun, fell in with, and captured  
 in the West India seas, the French frigate L'Insurgent, of  
 forty guns.

The President had met the Fifth Congress at Philadelphia, in December following. Washington was present for the last time in Philadelphia, for the purpose of consulting in reference to the approaching war, and the organization of the army which he was to command. He was an advocate of the war movement. Hamilton and Gouverneur Morris had become lukewarm at the supposed tardiness of Adams; whilst the former, in his patriotic zeal, was ready to gird on the sword and the buckler for a contest he thought righteous,

and upon which the interest and honor of his country depended.

The triumvirate ministry had returned with the most unfavorable reports of an adjustment; the United States were unrepresented, and their interest unprotected at the French Court. The Secretary of State had made his report to the President, which had embodied the exact status of the diplomatic relations between the two countries; ample materials for information had apprised the country of the depredations, the bad faith, the inhumanity, the outrage, under which she impatiently stood. The report above mentioned\* further exhibited the duplicity of the Directory, and the prostitution of Talleyrand.

Jan. 18,  
1799.

1. To exculpate itself from the charge of corruption, as having demanded the *douceur*, (\$222,000,) which was for the pockets of the ministers and members of the Directory.

2. To draw off Mr. Gerry from his colleagues, and to inveigle him into a separate negotiation.

3. The design of France to throw, in case of war, the burden of inducing it on the United States.

This masterly report, conversant as it is with every detail and fact of the late abortive effort,—the history of which I have given,—exposed the unfairness of France and the duplicity of her Government, in trying to embarrass the diplomatic relations of the United States and herself, which urged on the war party with us to higher and more determined effort. The administration of Adams, whilst pacific enough, had yet been decided, and its supporters, its leaders, and the most prominent men of the country were attached to the war party.

The situation of John Adams was perplexing; his own party urged him to measures of extremity, whilst the very extremity of the circumstances successfully excited his sympathy and invoked his approbation for war, urged on as he was by the popular clamor of his party.

John Adams, thus perplexed and embarrassed for a while, soon clearly perceived the right path of duty; and the impartial and truthful historian must record his bold and decided stand ultimately taken to support the honor of his country,

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\* See Report of T. Pickering, Secretary of State, Jan. 18, 1799, vol. i., Amer. State Papers, p. 246, giving a historical account of the efforts of Marshall, Gerry, and Pinckney at negotiation.

by every manifestation of high and determined resolution; yet with a mind open to the advantages of peace, and with a heart ready to respond to every effort at negotiation, as a spectacle of high moral sublimity, which does equal credit to his goodness as a man, and his firmness as a patriot. Whilst the reader will observe many blemishes that obscure the lustre of John Adams's administration, he will likewise turn to this proud stand taken for his country's prosperity as a bright and ever-memorable instance that will relieve his memory from the odium that would so justly transmit it to the execration of posterity.

The dark and dismal cloud of war hung threateningly over the political horizon, yet without loss of character, the voice of reconciliation, starting from its humble whisper across the mighty waters, could be heard and listened to by the President of the United States.

What ought Adams to have done? The nation was incensed and aroused; the party that placed him in his exalted station, in a great degree, caught the spirit of the Republican party, then rapidly becoming powerful, and with those who opposed him, were open-mouthed for war. Many of the ablest defenders of his administration had withdrawn their support and confidence. Hamilton was no longer amidst his councils; Morris had withdrawn from his confidence; Jefferson was plotting his political destruction; whilst Washington stood ready to head the army of his country to the tented field;—all this was to be opposed and overcome. The Presidential election was fast approaching; his popularity was at stake, and popular will was against him. Every inducement that could appeal to man's weakness was alluring him on one side; but with those lofty feelings which distinguish the patriot statesman, he despised and trampled down every opposing inducement. He doubtlessly saw that he was inflicting another self-sacrificing blow, as he did; but like a noble martyr he bore it, on this occasion, with heroic fortitude.

During the session of Congress, which had assembled in December, 1798, Adams received intimation from the French Government, through William Vans Murray, the American Minister in Holland, that Envoys would be received at the French Court for the purpose of holding diplomatic intercourse.\* After some hesitancy he determined, (though he had

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\* Stat. Man., vol. i. p. 134.

previously expressed his purpose to have no other diplomatic connection with France, unless he could receive the most satisfactory manifestations of good will,) to appoint another embassy.\*

The President, in obedience to the intimation he had received, appointed Mr. Murray, (then Minister to Holland,) Oliver Ellsworth, (then Chief-Justice,) and Patrick Henry, as Envoys to France, who were confirmed by the Senate. Henry, as has been said before, declined, and Governor William R. Davie, of North Carolina, was appointed in his place. Henry, in declining the appointment, thus expressed himself to the President:—"I entertain," said he, "a high sense of the honor done me by the President and Senate. Nothing short of absolute necessity could induce me to withhold my feeble aid from an Administration whose *abilities, patriotism, and virtue*, deserve the gratitude and reverence of all their fellow-citizens."

Feb. 26,  
1799.

Adams did not consult or inform his cabinet of his intention to make this appointment. When Mr. Pickering, Secretary of State, and Mr. McHenry, Secretary of War, heard of his intention, both urged the President to desist; yet he continued immovable, which served to render permanent the breach that was rapidly forming between him and these two members of his cabinet. The reader has already been informed in an earlier part of this history all about the details of this mission.

When our Envoys reached Paris, the Directory no longer held its corrupt sway over the French. Napoleon was first Consul, and immediately appointed three Commissioners,—his brother Joseph being among the number,—to treat with those sent from the United States. An entire change had taken place in the feelings of the French Government. Talleyrand, who still maintained the post of Minister of Exterior Relations, thus expressed himself to Mr. Murray, in his answer to a letter received from him apprising him of the new appointment:—

Floreal 23,  
1799.

"The Executive Directory being informed of the nomination of Mr. Patrick Henry, Mr. Oliver Ellsworth, and yourself, as Envoys Extraordinary and Ministers Plenipotentiary of the United States to the French Republic, to discuss and terminate all differences which subsist between the two coun-

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\* Bradford's History, p. 99.



tries, sees with pleasure that its perseverance in pacific sentiments has kept open the way to an approaching reconciliation.\*

The result was that upon the arrival of our Envoys negotiations commenced immediately, and in October articles were signed, which were immediately transmitted to the President and conditionally confirmed, except two articles, which were ratified during Mr. Jefferson's administration. Thus the United States, as they were emerging from the embarrassment of the late revolutionary struggle, and as the Government was starting upon its rapid march of improvement and grandeur, were saved from a sanguinary struggle which, had it not sealed the fate of liberty, would certainly have retarded the rapid development of this the most splendid Government that has ever enlightened the minds and alleviated the burdens of mankind.

Whilst this treaty and the appointment of Envoys had not only led to a rupture in the cabinet and dismissal of the Secretaries of State and War, and produced an angry excitement with the minority in Congress, as well as with the opposition party throughout the country, the Administration still maintained its popularity in Congress. The Senate had ratified the treaty with the exceptions mentioned; and in reference to the chief cause of excitement, the appointment of the last Envoys, the House of Representatives had sustained the President, "highly approving," said they, "as we do, the pacific and humane policy which has been invariably professed and sincerely pursued by the Executive authority of the United States—a policy which our best interest enjoined, and which honor has permitted the observance, we consider as the most unequivocal proof of your inflexible perseverance in the same well chosen system, your preparations to meet the first indications on the part of the French Republic, of a disposition to accommodate the differences between the two countries by a nomination of Ministers on certain conditions, which the honor of our country unquestionably dictated, and which its moderation had given it a right to prescribe. When the assurance thus required of the French Government previous to the departure of our Envoys had been given through their Minister of Foreign Relations, the direction for them to pro-

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\* Amer. State Papers, vol. i. p. 301. Talleyrand's letter to Murray, then Minister at the Hague.

ceed on their mission, was on your part a completion of the measure, and manifested the sincerity with which it was commenced. The uniform tenor of your conduct through a life useful to your fellow-citizens and honorable to yourself, gives a pledge of the sincerity with which the avowed objects of the negotiation will be pursued on your part; and we earnestly pray that similar dispositions may be displayed on the part of France. The character of the gentlemen you have deputed, and still more the character of the Government which deposes them, are safe pledges to their country that nothing incompatible with its honor or interest, nothing inconsistent with our obligations of good faith or friendship to any other nation will be stipulated.”\*

Whilst it is not denied that the Administration suffered in the loss of popularity, and the withdrawal of many of its earlier talented friends and supporters in reference to the French negotiation, the above extract, taken as it must be in connection with the action of the Senate, clearly proves that this settlement and the circumstances connected with it, were among the slightest causes of the embarrassment and ultimate downfall of the administration of John Adams.

During the session of the Fifth Congress two laws were passed, which, though of brief duration, produced more excitement, and with many more alarm than any course ever pursued by the American Government. I allude to the Alien and Sedition Laws. They have always been connected as producing equal outrage to the Constitution, and placing alike odium and distrust upon the Administration.

Yet they passed at different times, and were entirely disconnected in their operation. These two laws, the first, “An act concerning aliens,” was approved June 25th, 1798; the second, “An act in addition to an act entitled ‘An act for the punishment of certain crimes against the United States,’ ” was approved July 14th, 1798. The first was to continue in operation for two years from the passage thereof; the latter was to continue in operation until the third day of March, 1801, which was the last day of Adams’s administration. The Alien Law provided:—

Section 1st. That it shall be lawful for the President of

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\* *Vide* Answer of the House of Rep. to the President’s Address, delivered at the opening of Congress, Dec. 1799, prepared by a Committee of the House, of which John Marshall was Chairman.

the United States, at any time during the continuance of this act, to order all such aliens as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to suspect are concerned in any treasonable or secret machinations against the Government thereof, to depart out of the territory of the United States within such time as shall be expressed in such order; which order shall be served on such alien by delivering him a copy thereof, or leaving the same at his usual abode, and returned to the office of the Secretary of State, by the Marshal or other person to whom the same shall be directed. And in case any alien so ordered to depart shall be found at large within the United States after the time limited in such order for his departure, and not having obtained a license from the President to reside therein; or having obtained such license, and shall not have conformed thereto, every such alien shall, on conviction thereof, be imprisoned for a term not exceeding three years, and shall never be admitted to become a citizen of the United States. That if any alien so ordered to depart shall prove, to the satisfaction of the President, by evidence to be taken before such person or persons as the President shall direct, who are for that purpose hereby authorized to administer oaths, that no injury or danger to the United States will arise from suffering such alien to reside therein, the President may grant a license to such alien to remain within the United States for such time as he may judge proper, and at such place as he may designate. And the President may also require of such alien to enter into a bond to the United States in such penal sum as he may direct, with one or more sufficient sureties to the satisfaction of the person authorized to take the same, conditioned for the good behavior of such alien during his residence in the United States, and not violating his license, which license the President may revoke whenever he shall think proper.

Section 2d. Made it lawful for the President, whenever he may deem it necessary for the public safety, to order to be removed out of the territory thereof any alien who may or shall be in prison in pursuance of this act, and to cause to be arrested and sent out of the United States, such of those aliens as shall have been ordered to depart therefrom, and shall not have obtained a license as aforesaid, in all cases where, in the opinion of the President, the public safety requires a speedy removal. And if any alien so removed or

sent out of the United States by the President, shall voluntarily return thereto unless by permission of the President of the United States, such alien on conviction thereof, shall be imprisoned so long as in the opinion of the President the public safety may require.

Section 3d. Required every master or commander to report, upon landing, to the Collector of the port at which he landed, or other chief officer of the customs of such port, the names, ages, places of nativity, and country from which they sailed, the nation to which they owe allegiance, occupation and description of all such aliens who shall accompany him.

Section 4th. Gave jurisdiction of all crimes and offences against this act to the Circuit and District Courts.

Section 5th. Permitted the alien to take with him such property as he could carry, and protected his right to any property he might leave behind.

Section 6th. Related to its commencement and duration.

The Sedition Law, as it has been properly called, was as follows:—

Section 1st. That if any person shall unlawfully combine or conspire together with the intent to oppose any measure or measures of the Government of the United States, which are or shall be directed by proper authority, or to impede the operation of any law of the United States, or to intimidate or prevent any person holding a place or office in or under the Government of the United States, from undertaking, performing, or executing his trust or duty; and if any person or persons with intent as aforesaid, shall counsel, advise, or attempt to procure by insurrection, riot, unlawful assembly, or combination, whether such conspiracy, threatening, counsel, advice, or attempt, shall have the proposed effect or not, he or they shall be deemed guilty of a high misdemeanor, and on conviction before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment during a term of not less than six months nor exceeding five years; and further, at the discretion of the court, may be holden to find sureties for his good behavior in such sum and for such time as the said court may direct.

Section 2d. That if any person shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered, or published, or shall knowingly or willingly assist or aid in writing, printing, uttering, or publishing any false,



scandalous, and malicious writing or writings, against the Government of the United States, or either House of the Congress of the United States, or the President of the United States, with intent to defame the said Government or either House of said Congress, or the said President, or to bring them or either of them, into contempt or disrepute; or to excite against them, or either or any of them, the hatred of the good people of the United States, or to stir up sedition within the United States, or to excite any unlawful combinations therein, for opposing or resisting any law of the United States, or any act of the President of the United States done in pursuance of any such law, or of the powers in him vested by the Constitution of the United States; or to resist, oppose or defeat any such law or act, or to aid, encourage, or abet any hostile designs of any foreign nation against the United States, their people, or Government, then such person being thereof convicted before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years.

Section 3d. Related to the pleading on the part of the defendant, and allowed him to give in evidence in his defence, the truth of the matter contained in the publication charged as a libel.

Section 4th. Related to the duration of the act, (stated *supra*,) and that after its expiration it still was in force against those who violated its provision during its existence.

These two acts expired by their own limitation. Their merits and demerits were discussed throughout the land. Now, for the first time under the Federal Constitution, arose that angry dispute about the powers of the General Government in comparison with the powers of the sovereign States, which had formed and adopted this Constitution. The first voice of disapprobation that was raised and promulgated under the sanction of public authority, was, the resolutions submitted to the legislature of Kentucky, and adopted by it on the 10th of November, 1798. They were submitted by John Breckenridge, though they were written by Thomas Jefferson.

Virginia, at that time the most powerful and respected State in the Union, was next in raising her voice of indignation against this bold infraction of the Constitution. At

the next meeting of her legislature, and during the memorable session of 1798-9, were passed those resolutions, which, taken in connection with the debates that followed, present not only the most eloquent and learned commentaries upon the Constitution of the United States, showing the due limit of its powers, but they place in bold position those sovereign rights which belonged to the States then as well as now, composing this Union. Side by side stood Virginia and Kentucky in this important struggle for power; in this great effort of these two States to maintain the Constitution as it should be, and the rights of the States as they existed.

New York, Massachusetts, Connecticut, Delaware, Rhode Island and Providence Plantations, New Hampshire, and Vermont, all with one voice and a common effort, stood firmly and warmly in support of the Alien and Sedition Laws.

The resolutions of Virginia, passed by her legislature the 21st of December, 1798, were sent to the different States of the Union, to show the position she occupied and allow an opportunity to every member of the Union to make common cause in behalf of the Constitution which she thought outraged, and to maintain the rights of the States which she thought had been trampled upon and abused.

These resolutions, eight in number,\* set forth the true position of Virginia in reference to the contest that fell chiefly upon her shoulders.

These resolutions, coming from the then leading State in the Confederacy, and forming the system of politics in reference to the doctrine of Federal power on one hand, and State rights on the other, are of sufficient importance to justify an insertion in this volume, especially as the book containing the debates and resolutions upon the Alien and Sedition Laws, has become rare and difficult to procure. The resolutions are in the following words:—

1st. That the General Assembly of Virginia doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States and the Constitution of this State, against every aggression, either foreign or domestic; and that it will support the Government of the United States in all measures warranted by the former.

2d. That the General Assembly most solemnly declares a warm attachment to the union of the States, to maintain which

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\* *Vide* the Debates and Resolutions of 1798-99.

it pledges all its powers; and that for this end it is its duty to watch over and oppose every infraction of those principles which constitute the only basis of that union, because a faithful observance of them can alone secure its existence and the public happiness.

3d. That this Assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government, as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no farther valid than they are authorized by grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States who are parties thereto, have the right and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them.

4th. That the General Assembly doth also express its deep regret that a spirit has in sundry instances been manifested by the Federal Government to enlarge its powers by forced constructions of the constitutional charter which defines them; and that indications have appeared of a design to compound certain general phrases (which, having been copied from the very limited grant of powers in the former Articles of Confederation, were less liable to be misconstrued,) so as to destroy the meaning and effect of the particular examination which necessarily explains and limits the general phrases, and so as to consolidate the States by degrees into one sovereignty, the obvious tendency and inevitable result of which, would be to transform the present republican system of the United States into an absolute, or at best, a mixed monarchy.

5th. That the General Assembly doth particularly protest against the palpable and alarming infractions of the Constitution in the two late cases of the "Alien and Sedition Acts" passed at the last session of Congress, the first of which exercises a power nowhere delegated to the Federal Government, and which, by uniting legislative and judicial powers to those of executive, subverts the general principles of a free government, as well as the particular organization and positive provisions of the Federal Constitution; and the other of which acts exercises, in like manner, a power not delegated by the Constitution, but, on the contrary, expressly and positively forbidden by one of the amendments thereto,—a power

which, more than any other, ought to produce universal alarm, because it is leveled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right.

6th. That this State, having by its Convention which ratified the Federal Constitution, expressly declared that among other essential rights, "the liberty of conscience and of the press cannot be canceled, abridged, restrained, or modified by any authority of the United States," and from its extreme anxiety to guard these rights from every possible attack of sophistry and ambition, having, with other States, recommended an amendment for that purpose, which amendment was in due time annexed to the Constitution,\* it would mark a reproachful inconsistency and criminal degeneracy, if an indifference were now shown, to the most palpable violation of one of the rights thus declared and secured, and to the establishment of a precedent which may be fatal to the others.†

7th. That the good people of this Commonwealth having ever felt, and continuing to feel, the most sincere affection for their brethren of the other States, the truest anxiety for establishing and perpetuating the union of all, and the most scrupulous fidelity to that Constitution which is the pledge of mutual friendship and the instrument of mutual happiness, the General Assembly doth solemnly appeal to the like dispositions in other States, in confidence, that they will concur with this Commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional; and that the necessary and proper measures will be taken by each for co-operating with this State in maintaining unimpaired the authorities, rights, and liberties reserved in the States respectively, or to the people; that the Governor be desired to transmit a copy of the foregoing resolutions to the executive authority of each of the other States, with a request that the same may be communicated to the legislature thereof; and that a copy be furnished each of the Senators and Representatives representing this State in the Congress of the United States.

8th. That the General Assembly, having carefully and re-

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\* *Vide* Amendments to the Con., Article 1.

† A reference to the act of ratification of the Constitution, by Virginia, will more fully explain this resolution, which has been quoted at p. 91.



spectfully attended to the proceedings of a number of the States, in answer to their resolutions of December, 21, 1798, and having accurately and fully re-examined and reconsidered the latter, find it to be their indisputable duty to adhere to the same, as founded in truth, as consonant with the Constitution, and as conducive to its preservation; and more especially to be their duty to renew, as they do hereby renew, their protest against the "Alien and Sedition Acts," as palpable and alarming infractions of the Constitution.

After the resolutions of the 21st of December, 1798, had been transmitted to the executives of the different States of the Union—every one who returned any answer being directly opposed to the action and the sentiments of the Virginia Legislature—that body determined at a very early period to revise these resolutions, which had been offered by John Taylor, of Caroline, since known to have been penned by James Madison. A long and animated debate ensued. Statesmen who had won eternal laurels upon the theatre of the Union, rallied with all their ability, eloquence, and learning to the standard of the Republican party, then beginning to expand throughout the length and breadth of the Union. William B. Giles, unrivaled in close and severe argument, displayed on this occasion his wonted ability. John Taylor, of Caroline, and W. C. Nicholas, were likewise members of the legislature, with the display of all their eloquence, their zeal, and their patriotism. The Federal party was led on by George Keith Taylor, one of the ablest and most acute debaters the State has ever produced. Whilst Lee and other determined and gallant spirits added as able defence as such cause would admit. The result of this debate was that every resolution was sanctioned by the House, and supported by a report that will ever live upon the page of political philosophy as one of its brightest ornaments.

I would gladly examine every resolution and the doctrines upon which they are based, as well as the theories that were brought in opposition to them, but must content myself, at this time, with a notice of that part more particularly applicable to the topic under discussion,—the "Alien and Sedition Laws." As I stated, the States who noticed the Virginia resolutions, all dissented.\* The resolutions of these States were generally brief. Massachusetts and New York alone under-

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\* *Vide* names of the States, *supra* page 179.

took, by argument, to sustain the General Government. The Legislature of Massachusetts did not claim the right or admit the authority of any of the State governments to decide upon the constitutionality of the acts of the Federal Government. These acts were constitutional. The Constitution had erected no other tribunal and no other could decide, according to its provisions, upon the constitutionality of an act but the Supreme Court. These acts were not only constitutional, but expedient and necessary. That the United States, at the time of passing the Alien Act, were threatened with actual invasion, had been driven by the unjust conduct of France into warlike preparations, expensive and burdensome, and had then in the bosom of the country thousands of aliens, who were ready to join the army and plunge the poignard to the heart of our citizens. Should Congress wait until hostilities had commenced and the flame of war raging over the land? The removal of aliens was a usual preliminary of hostility and invariably justified by the law of nations.

The Sedition Act was equally defensible in the opinion of the Massachusetts Legislature. True, "Congress shall make no law abridging the freedom of speech or of the press." The act complained of is no abridgment of either. The genuine liberty of the press is the liberty to utter and publish the truth; the constitutional right of a citizen to utter and publish the truth was not to be confounded with the licentiousness in speaking and writing that which is employed in propagating falsehood and slander. It is a truth, most manifest, that the important trust delegated to the General Government cannot be discharged without the power to restrain or punish seditious practices and unlawful combinations against itself, and to protect the officers thereof from abusive misrepresentations. Had this power been withheld, the Government would have been responsible for the effects without control over the causes which naturally produce them, and would have failed to meet the great purpose for which it was designed,—viz. "To form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and posterity." Seditious practices and unlawful combinations against the Government, or any officer thereof in the performance of his duty, as well as licentiousness of speech and of the press, were punishable by common law in any of the courts of the United States before the

act in question was passed. This act is an amelioration of the law in favor of the party accused, mitigating the punishment and allowing any investigation of public men and measures which is guided by truth. This was said in behalf of those principles which Virginia, with the aid of Kentucky, succeeded,—for the welfare of the country, the safety of the Constitution and the States,—in utterly suppressing; not the laws in question, for they expired by their own limitation, but the spirit that gave them birth and might have revived them again, fell beneath the blows of Virginia's statesmen to rise no more, as thus they answered the speculative arguments upon which the "Alien and Sedition Laws" were based.

Of the "Alien Law" it was contended that it exercises a power nowhere delegated to the Federal Government, and that it united the legislative and judicial powers to those of the executive.\* It was further contended that this act was unconstitutional, as it was a direct breach of the 9th Section of the First Article of the Constitution, which says,—“The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by Congress prior to the year one thousand eight hundred and eight.”

It exercised a power not delegated by the Constitution. The Federal Government is composed of powers specifically granted, with a *reservation* of all others to the *States* or *people*. (Art. 10, Amendments to Con.)

This is equally applicable to the Sedition Act, besides its direct violation of the First Article of Amendments. I shall not pursue the train of argument presented by the able champions of the Republican party at that day; no event in the constitutional history of the United States is more important than this first decided controversy between the powers of the Federal and State Governments. Virginia, single-handed, save the coadjutancy of Kentucky, took and maintained a stand which deserves the everlasting approbation of posterity; the General Government had overleaped all constitutional boundaries, and at that early day, if unrestrained, it would have in a few years enveloped in its gigantic folds every power and right properly belonging to the States.

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\* The act declared “That it shall be lawful for the President to order all such aliens as he *shall judge dangerous* to the peace and safety of the United States, or shall have reasonable ground to *suspect* are concerned in any treasonable or secret machinations against the Government, to depart,” &c.

The proper boundary of these two powers has, from the earlier stages of the history of the American Constitution to the present day, been a subject of frequent and excited discussion upon our national theatre, as well as in the State legislatures. It has been made the topic in many a political struggle, and our ablest jurists have exhausted the arguments on both sides.\*

Much interesting history in reference to the sovereignty of the Colonies, and their distinctness as separate Governments up to the formation of the Federal Constitution, has been produced on the one hand; whilst with equal learning the advocates of the Federal party have contended, in the language of America's most distinguished jurist, for the *oneness* of the Colonies. For the full understanding of this interesting part of our constitutional history, the reader is referred to its details in another chapter.

Whatever may be the ultimate tendency of the final establishment of either doctrine, is not the subject of present inquiry. The State-rights party of the present day have carried the principles of their party to an extent equally as alarming as did the Federal party of the days of the elder Adams. The true definition of the limits of the General Government, as well as the retained powers of the States, must be ascertained by the Constitution of the United States. The State-rights party of 1798 and 1799 undertook to establish a platform, which they did, and which remained until the memorable days of the Proclamation the true and liberal exponent of a correct learning upon this question.

The Government of the United States was recognized by the State-rights party of that day as neither a "confederated" nor "consolidated" Government, but, in the words of Mr. Madison, "a mixture of both."

The Constitution presents "the diversion of the supreme powers of the Government between the States in their united capacity, and the States in their individual capacities."

It was formed not by the Governments of the component States, as the Federal Government for which it was substituted was formed; nor was it formed by a *majority of the people of the United States* as a single community, in the

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\* Among the ablest writers have been Judge Story, of the U. S. Supreme Court, on one side, and H. St. George Tucker, Judge of the Court of Appeals of Virginia, on the other.



manner of a consolidated Government: it was formed by the *States*—that is, by the *people* in each of the *States* acting in their highest sovereign capacity, and formed consequently by the same authority which formed the State constitutions. This is the language of Mr. Madison.\*

The true history of the formation of this Constitution proves it to be derived from that source from which the State constitutions sprung. It was adopted by the conventions of the respective States, which were convened by the people for that purpose. The United States Constitution revolves in its own orbit; the State constitutions revolve in their respective orbits, each separate and distinct, each with power supreme and uncontrollable by the other.

Their powers are stamped upon their face; and whilst they maintain their equipoise, they are not only supreme, but they can never conflict. The Constitution of the United States defines the powers of the General Government, but not the powers of the States. It must necessarily be of "as high and sovereign a character as any of the powers reserved to the States." Is it reasonable to suppose that the people of the States would make a Government and deprive it of self-sustaining power? The Constitution of the United States is "the supreme law of the land," and, after defining the powers of Congress, gives to that body the power to make all laws "necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or office thereof." The only question then to be asked is, has the Government gone beyond the limits of its charter? If it has not, then the States cannot control its action; it may advise but it must submit. If, however, the General Government shall exercise a power not granted, that moment it falls within the orbit of the States and its powers are nugatory. The General Government, like the State Governments, has at its command a Judiciary to expound its laws, and "a physical force for executing the powers committed to it."

In controversies between the General and a State Government, the Constitution has established a tribunal,† the Supreme Court of the United States, which is empowered to

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\* *Vide* Madison's Letter to Everett, dated August, 1830.

† *Vide* Madison's Letter to Everett, and Fed., No. 39.

decide between them; for "the judicial power shall extend to all cases in *law* and equity arising under the Constitution." (Sec. 2, Art. 3d.) Another branch of this question is much debated, which will be discussed under a different head—the right of secession on the part of a State. At this time I will simply say, in the language of the letters just referred to, in reference to the abuses of the General Government,—“In the event of a failure of every constitutional resort and an accumulation of usurpations and abuses, rendering passive obedience and non-resistance a greater evil than resistance and revolution, there can remain but one resort, the last of all, an appeal from the canceled obligations of the constitutional compact to original rights and the law of self-preservation.” This is the doctrine of the State-rights school of 1798–99, as explained by its fathers, and those who watched and nurtured the Federal Government at its very birth, and looked with equal regard to the rights of States on the one hand, and those of the General Government on the other.

None can deny the right of a State to resort to this, the *ultima ratio* under any and every form of government. The people threw every constitutional restraint around the General Government consistent with its powers of operation; they also designed and have legitimately lodged in its hands the means of a powerful action. With its limits defined, there is yet a power, the Judiciary; to say when its boundaries have been overleaped, and whenever it is so far lost to all sense of right, justice, and propriety, as to overstep its jurisdiction, the extent of the evil is the only criterion of State action, and that cannot be, under the Constitution, but the reserved and unalienable right of throwing off the Government that is oppressive.

Not a word was said, during the discussion in the Virginia Legislature on the resolutions of 1798–99, concerning the constitutional right of a State to arrest by force the operation of a law of the United States Government; no one thought of any such idea.\* The modern State-rights party have gone beyond the doctrine of the fathers of the school, and in ascertaining the right of a State as a *constitutional right* to secede, they attempt to establish a principle not recognized by the Constitution, but reserved to the States as a revolu-

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\* Madison's Letter to Everett.

tionary right which could not have been surrendered if it had been designed.

During the session of Congress, which continued until the 14th of May, but little was done which excited the  
 1800. attention of the country or deserved a place on the historic page. The defence of the country and the protection of commerce received the notice and attention of Congress. An act for maintaining peace with the Indians was passed, and for the relief of persons imprisoned for debt on judgments obtained in the courts of the United States. At several preceding sessions a bankrupt law had been proposed and warmly advocated; it was not passed until this session. A law in addition to the act of 1794 was passed, more extensive in its prohibition of the slave-trade.

At this session a person, then obscure and unknown, appeared and took his seat as the first Delegate from the Northwestern Territory. This was Wm. H. Harrison, who afterwards became alike distinguished as a statesman and soldier. An act was passed for the organization of a Territorial government for Indiana, then represented, along with Ohio, by Harrison. An act was passed for taking the second census.

Public attention began at this time to arouse and exert itself in reference to the ensuing Presidential election.

The Republican and Federal parties in Congress selected and recommended for the support of the people their respective candidates.

The Federalists presented for re-election President Adams, and placed on the same ticket General Charles Cotesworth Pinckney, brother of Thomas Pinckney, who had been on the ticket with Adams in 1796.

The Republican party nominated Thomas Jefferson and Colonel Aaron Burr.

At this period nearly all the electors were chosen by the State legislatures. The contest commenced in the election of members of the legislature.

Among the most important of these elections was that of  
 1800. the State of New York, which occurred on the two last days of April and the first of May. The result of the election was known before the adjournment of Congress and was favorable to the Republican party. The expectations of the Republican party were greatly raised by this unexpected result; the Federalists had relied with confidence on New York, as the vote of that State had been cast

for Adams and Pinckney in 1796. Adams was much excited by the result of this election. He abruptly dismissed from his cabinet two Ministers,—McHenry from the War Department and Pickering from the Department of State.

On the 22d of November President Adams met the Sixth Congress at Washington City, the then <sup>1800.</sup> seat of Government, where the various departments had been established since the adjournment of Congress in May last. Here the first Presidential speech delivered in the new capitol of the nation, was the last Annual Address of John Adams.

It was a reflectful and imposing occasion. A seat, designed to be as permanent as the Government itself, had been adopted; here stood the first capitol of the nation; here the first solemn temple dedicated to American liberty reared its massive walls and glittering domes; here, for the first time in the house of the nation, the guardians of the country gathered around its altar, with their fervent prayers to Heaven that this might ever be the unpolled fane of freedom.

The Address of the President was a brief and neat paper, reciting the condition of the country and its evident progress to unsurpassed wealth and power. He called the attention of Congress specially to the condition of our navy, and urged its claims for advancement and protection, in which connection he pointed out the necessity of the fortification of our seaports and harbors. The manufacture of arms likewise, in his opinion, invited the attention of our National Legislature. This branch of manufacture had already attained that state of perfection which, with little more care, would supersede the necessity of future importations.

This Congress continued in session until the 3d of March, at which time it closed its doors by operation of law.

Its labors were of a limited character. The most important acts related to the naval peace establishment, an institution which has done the most efficient service towards building up our commerce with the world, notwithstanding this act empowered the President, when he should think it safe or prudent, to sell the ships of the United States, except thirteen of the largest frigates, and that six of these be dismantled and the remainder continued in service. An act passed for continuing the mint establishment, and for estimating foreign coin. The subject of erecting a mausoleum to Washington was frequently discussed at this session. The House of Representatives proposed a mausoleum and voted one hundred



thousand dollars for the purpose; this was rejected by the Senate, which proposed, from motives of economy, the erection of a monument, towards the completion of which that body voted fifty thousand dollars.\* At this session an additional law was passed in reference to the Federal Judiciary, providing for the division of the United States into six circuits, and for the appointment of three judges in each, leaving the judges of the Supreme Court the exercise of only appellate jurisdiction.†

Between the 13th of February and the 4th of

1801.

March, the President appointed, with the consent of the Senate, the eighteen judges required by the Judiciary Act for the new court. The members of this court were men of high character and distinguished ability; but this institution was violently condemned by the Republican party. In allusion to the lateness of the appointments, the incumbents were called "the midnight judges of John Adams."‡

On the 11th of February, in the Senate chamber, in the presence of both Houses of Congress, the votes for President and Vice-President were counted; a deep and awful silence pervaded the hall; anxiety stood upon every face; hopes and aspirations on one hand, dread and fear on the other, alternate rose and fell; some impelled by a noble patriotism, others actuated by a sordid love of self-promotion. The foreseeing eye of the statesman looked with anxious doubt; the administration of affairs were to remain in the dangerous hands of those whose policy was sufficiently manifest to be dreaded, or the Government was to be placed in the hands of those whose course, yet undeveloped, was known would be entirely the reverse of that which had marked the track of the present incumbents. Had the experiment failed? Could man cease to trust and confide in one, more than four years? Could our policy have no stability, but be subject to a constant check, to a watchful and a sleepless vigilance that rendered its familiar acquaintance obnoxious? If so, each four years must produce a storm whose violence, if at first but testing the strength of our political fabric, might ultimately destroy its every feature. It was well believed what would be the

\* Bradford, 116.

† Journal of Cong., 1800, 1 Stat. Man., vol. i. p. 137.

‡ The law was soon repealed, and each one of them lost his office. Stat. Man., 137.

result; yet none had ever tested the effect a sudden subversion of the policy of one Administration and the equally sudden development of another and totally different one, would produce; time alone could answer. It is true, the administration of Adams was a continuation of the party which had elected Washington, and sustained him with an approbation bordering on unanimity; but it will be seen that the Federal party had transcended the bounds of constitutional propriety, and departed far from the bold but magnanimous policy of the first administration of our Government.

It has already been noticed that an act had passed Congress authorizing the second census under the Constitution. Some new divisions of the white population had been added since the taking of the first census. A discrimination was made between the sexes, and distributed each under the following heads:—

Those who were under ten years of age.	
“ “ ten, and under sixteen.	
“ “ sixteen, and under twenty-six.	
“ “ twenty-six, and under forty-five.	
“ “ forty-five, and upwards.	

We were made further acquainted with the rate of our increase. The whole population was thus distributed:—

White Males.....	2,204,421	
“ Females.....	2,100,068	
	<hr/>	4,304,489
Free Colored.....		108,395
Slaves.....		893,041
		<hr/>
Total.....		5,305,925
The increase in ten years.....	35·02	per cent.
White.....	35·68	“
Free Colored.....	82·28	“
Slaves.....	27·96	“
Whole Colored Population.....	32·23	“

This was estimated to the 1st of August, 1800. The *males* of the entire white population exceeded the females in the proportion of 100 to 95·03, but there is great diversity in the proportion between the sexes at different ages. It is impossible to arrive at absolute accuracy, owing to the different habits of the sexes, and the emigration of the males. Mr. Tucker makes the following calculation, which is as accurate as can be:—

Of those under ten years of age, the proportion of males to females was as.....	100 to 94.9
Between ten and sixteen.....	100 to 94.3
Between sixteen and twenty-six.....	100 to 102.1
Between twenty-six and forty-five.....	95.4
Over forty-five*.....	94.5

The increase of the colored population, which was but little affected by migration at this period, gives a more accurate ratio of increase by natural multiplication; and supposing it to be the same with the two races, (the colored population is greater by natural multiplication,) it can be approximated in this way. The accession to our population by emigrants would in ten years be 3.45 per cent., equal to the difference between 35.68 and 32.23 per cent. It must be remembered, however, that in the slave-holding States the *white* population had gained a little on the colored, but more on the slaves, who, from being by the first census more than a third of the whole population, was by the second somewhat less.

It will be seen by a reference to accounts of the administration of John Adams that the expenses of the Government increased rapidly under his system of financiering.

During the eight years of Washington's administration the expenditures were \$15,892,708 55; the public debt, \$36,090,946 92. During Adams's administration, which continued for four years, the expenditures amounted to \$21,348,351 19; the public debt, \$18,957,962 69.†

Parties in the United States took an early rise and soon acquired an intense bitterness towards each other.

In reference to the Articles of Confederation, it had been clearly seen they were greatly defective in withholding from the Confederated Government self-sustaining power; designed as "a perpetual union" among the States, its functions were yet to be made "more perfect" by the Federal Constitution.

Whilst the Constitution was under discussion before the Convention that framed it, a few were for giving to the Federal Government much stronger features than it contains. After its formation it was submitted to the people of the dif-

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\* Tucker, p. 21. "Dr. Seybert, p. 44, in his statistics, states that of persons under ten, the females exceed the males. It is due, however, to him to remark that while his computations appear to be accurate according to the data he possessed, he has often been misled by the errors in the first publications of the first and second censuses, which a more careful revision of their returns has subsequently shown."—*Note by Tucker.*

† Stat. Man., vol. iii. p. 1547.

ferent States, who ratified it in conventions called for the purpose. A respectable and talented party in many of the States opposed its ratification, on the ground of its giving too much power to the government of its creation. A distinctive party line began to develop itself; those by whom it was advocated were denominated Federalists, whilst its opponents were known as Republicans, who were scrupulously watchful of the rights of the States.\*

Upon its adoption by the different States, which occurred at intervals, the two parties and the extremes of each came together upon a common platform towards its faithful and ardent support. George Washington, who had presided over the very birth of the Constitution, whose name was enrolled at its end, who had been urgent for its adoption, was selected unanimously as the first President; and the people were to gather as one grand united party when the Government began its early career. As soon as the policy of the first Administration began to develop itself party lines were formed. It was not only necessarily incident to the very first efficient action of the Government that those principles should be adopted which called forth the exercise of its powers, but Washington, ——— Hamilton, and nearly all connected with the Government were disposed to give it the full exercise of a free and liberal construction. Others there were, too, that had opposed the adoption of the Federal Constitution, who afterwards supported it in its fullest latitude; conspicuously among this latter class stood Patrick Henry, who, in his last days, was elected to the Virginia House of Delegates as the advocate of the Alien and Sedition Laws.

Whilst the administration of Washington was strictly constitutional, many were of opinion that the only safe policy was that limited and strict construction which, in their jealousy of the Federal Government, gave an early rise to the State-rights party, which assumed to themselves the name of Republican, and gathered strength and popularity as the administrations of Washington and Adams progressed, until they finally triumphed in the election of Mr. Jefferson. The advocates of the administration of Washington, as well as his immediate successor, were called *Federalists*.

The first occasion of difference which marks the origin of

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\* Debates in Virginia Convention upon the adoption of the Federal Constitution.



parties after the commencement of Washington's administration, is presented distinctly in the charter of the first national

bank. The Secretary of the Treasury had been  
 1791. the constant advocate of a bank. A bill conforming to the plan of the Secretary of the Treasury, communicated in a special report, passed the Senate and was permitted to reach its third reading in the House of Representatives; on the third reading a powerful opposition sprung up, which had been little expected by its friends. Among the most distinguished opponents of the bill were Madison, Giles, Jackson, and Stone. The most imposing arguments brought to bear against the bill were directed against the constitutional authority of the General Government to charter a national bank.\* This measure contributed not inconsiderably, says Marshall, "to the complete organization of those distinct and visible parties which, in their long and dubious conflict for power, have since shaken the United States to their centre." The distinct and visible parties were the Federal and Republican. Whilst the latter thought the great danger to be apprehended was the undue ascendancy of the Federal Government, the former, equally respectable in talent, and more so in numbers at this time, had watched the progress of American politics, and as sincerely believed the real danger to the Republic was in the undue ascendancy of the States; they were strongly confirmed in this sentiment by an accurate observation of the proceedings of several State legislatures respecting the action of Congress. Without reviewing the history of Washington's administration, with which the reader is now fully acquainted, and with those measures which, though reprobated by the Republican party, were justly applauded by the Federalists as the basis of the prosperity of the Union, I will contrast the condition of the country in 1788 and 1797:—

At home, a sound credit had been created; an immense floating debt had been funded in a manner perfectly satisfactory to the creditors; an ample revenue had been provided; those difficulties which a system of internal taxation, on its first introduction is doomed to encounter, were completely removed; and the authority of the Government was firmly established. Funds for the gradual payment of the debt had been provided; a considerable part of it had been actually discharged;

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\* Marshall's Life of Washington, vol. ii. pp. 203, 206.

and that system which is now operating its entire extinction had been matured and adopted. The agricultural and commercial wealth of the nation had increased beyond all former example. The numerous tribes of warlike Indians, inhabiting those immense tracts which lay between the then cultivated country and the Mississippi, had been taught by arms and by justice to respect the United States, and to continue in peace.\*

Abroad, our differences with the world were nearly all healed; the free navigation of the Mississippi was ours, with the use of New Orleans as a place of deposit for three years, and afterwards until some other place should be allowed us. This was an advantage of incalculable magnitude, as it removed the cause of mutual ill-will between the United States and one of the first maritime powers of the earth. Treaties had been formed with every nation of importance, and the waters of the world were opened to our commerce. And, more important than all, the principles of the Constitution were engraved upon the hearts of the American people.

This is the picture the Federal administration of Washington presents to the reader; this the picture the opposition party would blacken and deface. The great measures of this Administration show the necessity of that construction and application of the principles then practiced, whilst they prove with absolute certainty that the dangers apprehended by the State-rights school were without foundation. No shade hangs over the brightness of this picture but the unsettled difficulties with France, which were not adjusted until the succeeding Administration.

When Mr. Adams took charge of the reins of Government, elected as he had been by the same party who had rendered such undivided support to the preceding Administration, he designed, as he did to some extent, to carry out the principles of that Administration. It is true, the expenses of the Government were increased, as have been necessarily so during every succeeding Administration; yet the resources of the Government were enlarged, and Mr. Adams reduced considerably the public debt. The principles of neutrality, as the essential policy of the United States established by Washington, were adopted by Adams and rigidly pursued. The French difficulties, which devolved upon Adams's administra-

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\* Marshall, vol. ii. p. 423.

tion, were adjusted with eminent skill, avoiding an expensive and sanguinary war, with equal protection to the honor of the nation and the interest of the citizens.

Clamorous though unnecessary objections were urged against the increase of the army. The reader will have seen from the preceding pages its necessity, from the perilous nature of the French difficulties. It must be viewed as a preparation for an expected war, and not as an effort to enhance the strength of the Government, merely for pomp and show; as soon as all appearance of war vanished the increased army was disbanded. The law establishing the Circuit Courts of the United States, to be holden by justices not of the Supreme and District Courts, which was soon repealed, showed the foresight of the Administration; they were dispensed with early in the succeeding Administration, because the business of the Federal Courts was comparatively small; yet future experience soon developed the narrowness of that policy which abolished them. Whilst Mr. Adams continued his administration upon the plain and simple provisions of the Constitution, it was exceedingly popular. In 1798 it was nearly the universal sentiment of the people that the administration and the measures of Congress were wise and proper. Before the close of the year 1800 an entire revolution in public opinion had pervaded the country. High and honorable gentlemen in every section, equally distinguished for virtue as for talent, had turned against the Administration, and it was soon discovered that Mr. Adams could not be re-elected.

This sudden change of public opinion is attributable to several causes. In Virginia and Kentucky, the passage of the Alien and Sedition Laws had turned the voice of the people loudly against the Administration, which, added to the influence of Thomas Jefferson, and the promulgation of the ultra Democratic doctrines which he entertained, linked with a sympathy for France, which existed extensively at that time throughout the country, left scarcely a party for Adams in these two States. The Alien and Sedition Laws scarcely diminished his popularity in the Northern States; they had been sustained with great unanimity by the legislature of every State at the North. The Administration had become quite unpopular among these States, however, and a union of the two extremes of the parties had taken place to put down the Administration. Many of the ultra Federalists, led by

the distinguished talent and influence of Hamilton, who, along with others, had left the Administration, and, though without sympathy for the Republican party, equally opposed the Administration. The Federalists were opposed to war with France; many of the anti-Federalists were advocates of a war. A large number of the Federal party deserted the Administration on account of the manner in which Adams had acted, and were much excited about his vascillating course in reference to France. It was known after the treatment our Envoys,—Messrs. Pinckney, Marshall, and Gerry,—received from the French Court, that Mr. Adams had declared “that if France should send a Minister to-morrow, he would order him back the day after.”\* Very soon thereafter a correspondence sprung up between Mr. Adams and Mr. Murray, our Minister at the Hague, which resulted in the appointment of Mr. Murray as Minister to France. The unpopularity of this step induced, as the reader is aware, the appointment of two other gentlemen as associates of Mr. Murray; this was all done without the concurrence or advice of his cabinet. This entire appointment produced great dissatisfaction with the friends of the Administration. It was contended that it waived the point of honor, which, after two rejections of our Ministers, required that the next mission should proceed from France. After the many indignities and outrages that this country had received, it was thought that it exhibited a disposition to compromit the honor of the nation by yielding too much.†

Immediately after the New York election, which was known to be unfavorable to Mr. Adams, he abruptly dismissed two of his cabinet ministers,—Mr. Pickering, Secretary of State, and Mr. McHenry, Secretary of War,—which caused much sensation throughout the country, and had a considerable tendency in weakening the Federal party. Mr. Adams offered no excuse for this freak of temper, and it can only be attributed to his irascibility. It was notorious, besides Mr. Adams’s great jealousy of men, that he was often liable to paroxysms of anger which deprived him of self-command.‡ A forcible illustration of his temper is discovered in his actions towards his own friends by whom he was elected Vice-President; when he ascertained that it was, as he knew, the intention of the entire country that Washington should be President

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\* Hamilton’s Letter upon the Administration of Adams. † Ibid. ‡ Ibid.



and he Vice-President. After Washington and Adams had been selected, the first for President, the latter for Vice-President, owing to the then existing mode of voting, it was foreseen that the wishes of the people might be defeated, unless Washington was elected, and it was determined, to obviate this difficulty, that a number of Mr. Adams's friends should vote for other persons, and by thus diverting their votes insure to General Washington a plurality. Mr. Adams complained of great unfairness in not being allowed to take an equal chance with General Washington.\* Abundant evidence exists of the coldness, selfishness, and badness of temper, often rising to rage, which, notwithstanding Mr. Adams's great talent and undoubted patriotism, rendered him entirely unfit to fill the office of Chief Magistrate.

Mr. Adams possessed great talent, highly polished and cultivated, united with the highest patriotism and the most unflinching honor; his administration in all foreign relations was unexceptionable. The nation, at the expiration of his term, stood in a commanding attitude of defence; and liberty, peace, and improvement, shed their halcyon rays throughout the land. Public credit had been fully established, and the faith of the nation was pure and unsullied, commanding the respect and admiration of the civilized world.

Yet in surveying the domestic policy of this Administration, all must feel the strongest conviction of the necessity of a change of our internal policy. In concluding this chapter, I will remark, that an enlightened public opinion from the heads of the Federal party, though not united with the Republicans in the election of Mr. Jefferson, lent their aid to the defeat of Adams. The former were no longer satisfied that Mr. Adams could successfully carry out the first established principles of our Government, owing to the great dissensions he had created in his own party and even in his own political household. The latter, urging the objections of the party to which Mr. Adams was attached, added to the other features of their principles which I have already noticed, likewise attacked, with some show of plausibility, and most assuredly with some success, the purity of the right arm of the civil power of every Government—the Judiciary. Whilst the administration of justice under our Federal Judiciary was so adroitly conducted as to obviate punishment on the part

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\* Hamilton's Letter upon the Administration of Adams.

of the incumbents of the bench, there exists abundant evidence to show the leaning and tendency of the Federal courts, in many instances in a most unfair way, towards those who were indicted under the Sedition Law, as well as the violation of the direct tax.

Matthew Lyon, who, though a Representative in Congress from Vermont, was a very low and vulgar blackguard, nevertheless was entitled, upon a trial under the Sedition Law, to *a full and fair one*, was not only treated by Judge Patterson with marked indifference, but with absolute injustice and cruelty. The trial came up on Saturday, the prisoner pleaded and was admitted to bail, and the case adjourned over to Monday. Lyon was called at eleven o'clock; he requested time, as his counsel had not arrived; the Court *reluctantly* granted until *twelve the same day*, at which time, though the prisoner's counsel had not arrived, he consented to go into the trial, fearing to ask longer indulgence from a prejudiced Court. Lyon plead his own cause; and though he was a trifling fellow, yet no doubt exists of the impropriety of the Judge in forcing the prisoner into trial, as well as the harshness and violence of the charge from the bench. For *ridiculing* the President, Lyon was thrown into a dungeon six feet square, during a rigorous winter, with a fine of one thousand dollars, and to stand committed until judgment be complied with.\*

In May, 1799, John Fries was indicted in the Circuit Court, held at Philadelphia, for high treason. It will appear to the satisfaction of the reader that Judge Iredell, who sat on the trial, was unjustly and improperly inflamed against the prisoner, and greatly transcended the dignity of the bench.

In the famous trial of Thomas Cooper before the Circuit Court of the United States sitting at Philadelphia, April, 1800, before Judges Chase and Peters, the Court exhibited an equal deviation from moral rectitude, by showing not only its political bias, but the most unwarrantable temper against the prisoner, who, upon the indulgence of a little satire upon *John Adams*, was sentenced to pay four hundred dollars and imprisonment for four months, and at the end of that time to find security for his good behavior, himself in a thousand dollars, and two sureties in five hundred dollars each.†

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\* Graham's Sketches of Vermont; Wood's Hist. of Adams's Ad.

† Cooper's Trial; Wood's Hist. of Adams's Administration.

On the 28th of May, 1800, commenced the trial of Calender, for a libel on the President. He was tried before Judge Chase, who presided at the Circuit Court held in the city of Richmond. In the trial of this cause, Judge Chase exhibited throughout the most unwarrantable irascibility, which extended even to the counsel for the defence; and from the various interruptions, as well as the decision of the Court upon many points arising during the trial, it was apparent even to those who were drawn by curiosity to the court-room, that the Judge, under the influence of his Federal sentiments, was biased and prejudiced beyond example in our courts against the prisoner.\* There were many other instances, equally convincing, which not only threw a large share of odium upon the Federal Judiciary, but served as a powerful weapon in the hands of the Republican party to attack the Administration.

I have not made allusion to this from any unfriendly spirit to the Federal Court, but simply as a part of the history of the opposition to Mr. Adams. No one has a more exalted admiration for the purity and talent of the Federal Judiciary than the author; and whilst it is manifest that the courts were inflamed and biased in many instances, yet their general history will shine in equal lustre with any Judiciary on earth. The only trial of a Federal Judge that ever occurred was the trial before the United States Senate of Samuel Chase, which grew out of his administration of the laws under Adams and the trials just related.

I have presented to the reader a full history of the administration of Mr. Adams, in which he will find much to praise and much to blame, yet without advancing at this time any opinion upon the succeeding Administration. It is equally clear that John Adams was no longer the fit and proper man to preside over the administration of the Government of the United States. But in summing up the objections which so justly consigned him to the shades of private life, we should ever be mindful that his voice was among the boldest and most eloquent in facing the wrath of England, and advocating the rights of the oppressed Colonies, and often incurred perils by land and sea, at home and abroad, in behalf of his

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\* Trial of Judge Chase before the Senate of the U. S., and the testimony on the part of the United States.

country. When called to the Chief Magistracy of the nation, he often displayed a boldness of policy, an accuracy of judgment, and fullness of patriotism, equaled by few, excelled by none. Whilst his brilliant career is shaded with some gross errors, yet he lived to a green old age, covered with many honors, and died as he lived, an honest man.



## CHAPTER V.

## THE ADMINISTRATION OF THOMAS JEFFERSON.

THE life of Thomas Jefferson is among the most interesting and instructive of those distinguished persons who have from time to time stood conspicuously before the world as Presidents of the United States.

The ancestors of Jefferson on the paternal side, came early to this country from Wales. His grandfather lived at a place called Osborns, in the county of Chesterfield, Virginia. Peter, the father of Thomas, married Jane, the daughter of Isham Randolph. Thomas Jefferson was born at Shadwell, his father's seat in Albemarle County, Virginia, on the 2d of April, 1743.

In the spring of 1760, Jefferson became a student at the College of William and Mary, where he continued for two years. Dr. Small, a Scotchman, was then Professor of Mathematics, between whom and Jefferson a warm personal attachment was engendered. He procured for his young student, after the accomplishment of his collegiate course, a place as student at law in the office of the venerable Wythe.

In 1767, Jefferson came to the bar of the General Court, and continued at the practice until the Revolution closed the doors of the courts.

It has been said that Jefferson made no figure at the bar, which is erroneous; whilst his voice would not allow him to figure as a popular speaker, yet it was all-sufficient for the bar, and there are extant many written arguments of his whilst in the laborious pursuit of his profession, which show his right to its first honors.\*

Jefferson's ardent temper had in early youth bestowed upon him an anxious feeling for an active participancy in the civil contest which was now approaching. In 1769 he was elected

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\* Wirt's Eulogy on Adams and Jefferson.

a member of the House of Burgesses from the county of Albemarle. His attention was early drawn to the subject of negro emancipation; at this session he offered a resolution to remove the restrictions which the law imposed on voluntary emancipation; this was rejected. The general right to manumit was not allowed in Virginia until the year 1782.\*

Energetic and eloquent with the pen, he published in 1774 his "Summary Views of the Rights of British America," which was an able, calm, and accurate survey of the true relations between the Mother Country and her Colonies. This paper received much popularity in England, and was republished under the auspices of Edmund Burke.

He was elected in the year 1775 to the Continental Congress, of which body he was for a few years a distinguished member. It was whilst a member of this body that he prepared the Declaration of Independence. During the same year the Virginia State Government was organized; Jefferson was elected to the legislature and resigned his seat in Congress. During the time this distinguished individual served his native State in her own halls, he reared enduring monuments of his fame, and left a lasting record of his wisdom. He was the author of the law prohibiting the future importation of slaves; the abolition of the law of primogeniture, establishing in its place the equal partition of inheritances, was likewise the work of his benevolent heart; his enlightened attention was also attracted to a plan for a general system of education, which, however, never went into operation. To this day, Christians of every creed, as they gather to the public altar and offer their unrestrained and fearless worship in obedience to their own conscience, will remember in their devotion the author of the law establishing religious freedom throughout the limits of Virginia. These daring innovations but brilliant improvements, sprang from the prolific mind of him whose pen traced the lines of our Declaration of Independence.

The kindness of his temper is exhibited by the attention he bestowed upon the British troops captured at Saratoga, who were removed to Charlottesville, in his immediate neighborhood, and in their distress were fed in part by the liberality of this gentleman, upon representation of a scarcity of provisions in the vicinity of their location. The Governor and Council, by authority of Congress, determined to remove

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\* Tucker's Life of Jefferson, vol. i. p. 46.

them. Jefferson addressed an urgent appeal to Henry, then Governor of Virginia, in behalf of the prisoners and the inhumanity of the policy. He was successful and the troops were allowed to remain.\*

Jefferson was elected the second Governor of Virginia, on the first of June, which office he occupied two years.

1779. In reply to a series of questions addressed by M. de Marbois, Secretary of the French Legation to the United States, Jefferson published in 1781 his "Notes on Virginia," which was somewhat a philosophic and quite a popular little work, as was attested by being soon afterwards republished in France and England.

Congress appointed him Minister to join those in Europe to assist in the negotiation for peace. He did not go; intelligence reaching Congress that preliminaries had been signed.

He was again elected to Congress and acted as chairman

1783. of the committee to whom was referred the treaty of peace with Great Britain, and by whom it was unanimously ratified.

He was the author of our present system of coins and decimals. He wrote his notes on the coinage for 1784. the United States, proposing a different money unit from that advocated by Robert Morris, the continental financier.† From the scarcity of the precious metals, unavoidably so in new Colonies, the currency, nominally the same with the Mother Country, had greatly depreciated. Thus, £100 money of Great Britain was equal in New England and Virginia to £133 $\frac{1}{3}$ ; in Pennsylvania, Jersey, Maryland, and Delaware, to £166 $\frac{2}{3}$ ; in New York and North Carolina, to £177 $\frac{7}{9}$ ; in South Carolina and Georgia, to £103 $\frac{1}{4}$ .‡

The attention of Congress had been called to the subject as early as January, 1782. Morris had made a report, proposing a money unit of 1.1440 of a dollar, which would be the common measure of the penny of every State.

Jefferson was a member of the committee on which final action was had on this vexed and intricate question.

1773. He objected to Morris's plan, and proposed the dollar as the unit, and the other coins so related to this as to

\* Tucker's Life of Jefferson, vol. i. c. 5; Stat. Man. vol. i. p. 142.

† Stat. Man., vol. i. p. 144.

‡ Tucker's Life of Jefferson, vol. i. p. 160.

be conformable to the decimal arithmetic. Morris objected to this plan. Jefferson's was in the following year adopted by Congress. Morris objected to Jefferson's estimate of gold to silver at 15 to 1 as too high, but subsequent experience shows that Jefferson did not estimate it quite high enough, gold being nearly driven from the country until it was raised 16 to 1. What has been the result of recent heavy importations I am unable to say, though Congress endeavors to maintain a uniform adjustment by regulating the quantity of coinage.

1784.

Jefferson rarely spoke whilst a member of the Virginia Legislature or of Congress; it is to be inferred he was not inclined to much speaking. He served, he says,—“with General Washington in the legislature of Virginia before the Revolution, and during it with Dr. Franklin in Congress. I never heard either of them speak ten minutes at a time, nor to any but the main point which was to decide the question.”

On the 7th of May, Jefferson received the appointment of Minister Plenipotentiary to France, to act in conjunction with John Adams and Dr. Franklin. A few days previous to the appointment a proposition was made to reduce the salaries of foreign Ministers from eleven thousand one hundred and eleven dollars, to eight thousand dollars. During the pendency of the proposition, Jefferson, perhaps with an intimation that the appointment would be tendered to him, refrained from voting. The question was definitely settled by fixing the salaries of Ministers at nine thousand dollars.

1784.

The copious life of Jefferson from the pen of Professor George Tucker, renders an account of him whilst in Paris needless in this place. His eminent literary acquirements and devotion to science, rendered Paris a delightful place to him; he became as great a favorite at Court and among the *savans* and *literateurs* of the French metropolis as had been his distinguished predecessor Dr. Franklin, who left regretted by the Court, as is seen from the remark of Vergennes (the French Minister) to Jefferson, when it was known Franklin had to leave,—“*Vous remplacer Mons. Franklin, je crains?*” to which Jefferson replied,—“he succeeded Dr. Franklin, but no one could replace him.”\* Whilst Jefferson continued at the French Court, he maintained an agreeable literary inti-

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\* Tucker's Life of Jefferson, vol. i. p. 176.



macy with *Condorcet*, *D'Alembert*, *Morrellet*, and other scientific men of France, with whom he engaged his leisure moments in a manner highly congenial to his disposition. With leave

1789. of absence, Jefferson reached his native shore on the 23d of October. His purpose had been, on leaving France, to return, which was altered upon the reception of a letter from General Washington, tendering him the appointment of Secretary of State, which he appears to have accepted with reluctance and diffidence.\*

Whilst Secretary of State, he rendered unquestionable aid to Washington and good service to his country. The reader is acquainted with the position he occupied in the cabinet; with his reports on the currency, on weights and measures, on the fisheries, and on commercial restrictions, which have been treated of in the chapter on Washington's Administration. Whilst holding office under Washington, he disapproved of many measures adopted by the Administration. In 1791 the President called on him for his opinion concerning a national bank, to which he was violently opposed, deeming it unconstitutional. Jefferson's opinion was overruled; Washington approved the bank bill. He saw and dreaded the influence which the wisdom, talent, and virtue of Hamilton had upon the deliberations of the cabinet. Many difficulties originated between the Secretary of State and the head of the Treasury Department, which not only resulted in permanent ill-feeling between them, but doubtless was partly the cause of the resignation of the former.

Jefferson retired for a season to the shades of private life, seeking happiness in the indulgence of his literary taste, when not absorbed by his passion for political warfare. Under his auspices, through the influence of an enormous correspondence, tempered with great bitterness, the opposition to Washington's administration assumed an organized form. The opposition party, recognized and known as *anti-Federalists*, were advised by him to take the name of Republicans; their opponents bestowed upon them the name of *Democrats*, which had been borrowed from the French. The term was disliked and seldom used by the great leader of the Republican party. He knew too well from actual observation

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\* Jefferson's Works, embracing his Correspondence, published by T. J. Randolph.

the force and odium of such an appellation, as applicable to the party to which it was applied in France.

In 1796 the Republicans brought Jefferson before the people as candidate for the Presidency, as has been previously stated; John Adams receiving a higher number of votes was elected to the Presidency, and Jefferson to the Vice-Presidency. After being called by virtue of his office to preside over the Senate, he compiled a manual which has continued a guide to all parliamentary bodies in the United States to the present time.

Party feeling was again excited; the administration of John Adams not only strengthened by its unpopularity the success of the Republicans, but, as we have seen, precipitated its own ruin by destroying its political household, and driving to enmity and open opposition many of the most distinguished and influential members of the Federal party. Jefferson was again in nomination. His party, confident of success, had placed another distinguished man likewise in the field; the office of Vice-President was also to be filled by a Republican. Aaron Burr was voted for along with Jefferson. It was the undoubted wish of the party that Jefferson should be President. The difficulty soon to present itself had never occurred to the minds of the statesmen or the people of that day. Jefferson and Burr received an equal number of votes. 1800.

The votes for President and Vice-President were counted in the Senate chamber on the 11th of February, in the presence of both Houses of Congress. Upon 1801. the announcement of the result, Jefferson, then Vice-President, declared Thomas Jefferson and Aaron Burr to have received an equal number of votes.

The responsibility of deciding this unfortunate occurrence devolved upon the House of Representatives. Here, subject to every opportunity and inducement to corruption, was to be effected an election the people had failed to make. Suspicion of corruption has been raised, yet doubtless each member of that memorable Congress obeyed the incitement of an honest heart. The members of the House retired to their own hall, where it was ascertained one hundred and four members were present, one being dead and another detained from his seat by sickness.

The balloting by the House was by States. On the first ballot it was ascertained there were eight *States* for Jefferson,

six for Burr, two divided. The result continued the same for thirty-five ballots; many members despaired of an election. Jefferson's mind seemed warped and excited by jealousy and suspicion.\* Bayard was the chief object of his spleen on this occasion, whose reputation, however, has been fully defended by his two sons. Jefferson asserted that he obtained from Livingston and W. C. Nicholas the information that Bayard proposed to Smith to come over to the Burrites, and that he was authorized to make him an offer of any place he desired, mentioning especially the secretaryship of the navy. For a defence of Mr. Bayard the reader is referred to the "*National Gazette*" of the 25th of January, 1831. The Federalists, it is true, united upon Burr, but the suspicion of corruption has never found countenance beyond the bosom of Jefferson. No evidence exists of offers from Burr to the Federalists, or from the Federal to the Republican party. The fact of their uniting upon Burr, who then stood as high as Jefferson for integrity, and higher for talent, can readily be attributed to local and personal predilection. Burr, from location, was better known than Jefferson; a larger part of the Federal party were geographically identified with him in interest, and they supposed him, as he was, more allied to them in policy.

*On the thirty-sixth ballot*, which occurred on the 17th of February, several of the friends of Burr withdrew their votes by putting in blanks, the result of which was Jefferson obtained *ten States*, Burr *four*,—viz. New Hampshire, Massachusetts, Connecticut, and Rhode Island. There were two blanks,—Delaware and South Carolina. Jefferson was thereupon elected President, and Burr Vice-President, from the 4th of March, 1801.† During the protraction of this election by the House, much anxious excitement pervaded the country. Members of Congress were writing to their friends and constituents that the Federalists were determined to defeat the election of the Republican candidates, that a President was to be elected for the Senate, that the Government was to be given up to Jay, and many other assertions, designed no doubt to excite party feeling. The result happily relieved the country, and removed all suspicion which had rested on the Federal party.

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\* *Vide* his Letter to Madison, February 18, 1801; 'ditto to Monroe, February 15, 1801.

† Stat. Man., vol. i.; Tucker's Life of Jefferson, vol. ii. c. 8.

The great contest was over; the principles of Washington, the doctrines of the fathers of the Constitution, had been fully canvassed before the public; they had been submitted to that tribunal which allows no appeal. The people had abandoned the Federal party; they had been induced to magnify their faults, and there were faults. Though they had been seduced by the cry of too much power in the Federal Government, they had embraced the Republican doctrine of Jefferson, and they were alarmed by the monarchical features he could detect in the Constitution he would have to swear to support if elected, and he did swear that he would support it when modestly inducted to office. The measures of the existing Federal party must have been the particular cause of objection with the Republicans, not their principles; for the reader will detect, after giving his attention to the administration of Jefferson, that whilst its principles were more extensive than the Republican doctrine will fairly admit, yet some of its measures were more highly Federal than any of the preceding Administrations. It will appear that Jefferson clearly thought the acquisition of Louisiana beyond the scope of the Constitution; whilst, with a Constitution that gave too much power to the President, he steps beyond the authority with which he is invested, commits an act which in his opinion he has no authority to do, and throws him upon the country to ratify a measure he acknowledges unconstitutional. It is apparent, let the parties of the country raise ever so much excitement about the abstract Federal doctrines of the first two Administrations, that history attests the truth that no man can reach the head of our National Government without becoming a convert, whatever be his previous opinions, to the doctrine of the Federal school; his position, his interest, his duty, his oath, make it so. Jefferson saw the character of his position when he said,—“We are all Republicans, all Federalists.”\*

On the 4th of March Jefferson took the oath of office, and delivered his Inaugural in the Senate chamber; it was received with much delight and satisfaction,

1801.

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\* This remark occurs in his Inaugural Address. It was supposed by the Federalists that it was intended as an overture to them, which was objected to on that account by some of his own party. I do not suppose Mr. Jefferson had any such idea. He says in the words immediately preceding,—“We have called by different names brethren of the *same principle*,” and he clearly foresaw he must in many respects administer the Government upon the same principle, whilst he would in no manner identify himself with many of the *measures* of the Federal party.



making an impression on all who heard it of the liberality of its sentiments. In beauty of conception, richness of thought, purity of diction, and eloquence, it is surpassed by no paper in our language. Such papers are never designed to show the doctrines of a party, but simply to exhibit congratulatory feelings. Jefferson advances no doctrines of his own or of the Republican party; he recapitulates principles engraven upon the minds of all, and elegantly compasses them in the following language:—

“Equal and exact justice to all men, of whatever State or persuasion, religious or political; peace, commerce, and honest friendship with all nations, entangling alliances with none; the support of the State governments in all their rights, as the most competent administrations for our domestic concerns and the surest bulwarks against anti-republic tendencies; the preservation of the General Government in its whole constitutional vigor, as the sheet-anchor of our peace at home and safety abroad; a jealous care of the right of election by the people, a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority, the vital principle of republics, from which there is no appeal but to force, the vital principle and immediate parent of despotism; a well disciplined militia, our best reliance in peace and for the first moments of war, till regulars may relieve them; the supremacy of the civil over the military authority, economy in the public expenses, that labor may be lightly burdened; the honest payment of our debts and sacred preservation of the public faith; encouragement of agriculture and of commerce as its handmaid; the diffusion of information and the arraignment of all abuses at the bar of public reason; freedom of religion; freedom of the press; freedom of person under the protection of the *habeas corpus*; and trial by juries impartially selected,—these principles form the bright constellation which has gone before us, and guided our steps through an age of Revolution and Reformation.”

These were the bright and gilded theories held out by Jefferson as a star of guidance for himself and party; true and beautiful in morals as in politics; the subsequent history of this man is to show how far he acted up to them, how far he yielded an honest homage, how far he overleaped them, how far their spirit pervaded his political action.

President Adams called the Senate together on the 5th of March, to allow the new incumbent to organize his cabinet. James Madison was made Secretary of State; Henry Dearborn, of Massachusetts, Secretary of War; Levi Lincoln, of Massachusetts, Attorney-General; Samuel Dexter, who had filled the office of Secretary of the Treasury under Adams, and Benjamin Stoddard, who was Secretary of the Navy, were continued in office for a short time. Before the meeting of the next Congress, Albert Gallatin, of Pennsylvania, was appointed to the office of Secretary of the Treasury, and Robert Smith, of Maryland, to the head of the Navy Department. Coincident with the appointment of Smith, Gideon Granger of Connecticut, was appointed Postmaster-General, in the place of Joseph Habersham, of Georgia; the incumbent of this office was not until many years afterwards made a member of the cabinet.

From the tendency of Jefferson's Inaugural Speech, the fears that had existed that he would expel the Federalists from office had been partly allayed; yet they were soon taught from the policy of the Administration, that they had but little hopes of political toleration. Goodrich, a Federal officeholder, was removed from the collectorship of the port of New Haven, and a Republican was appointed in his place. It became a subject of remonstrance from the citizens of New Haven. Jefferson in reply, told them he had been misunderstood in their expectancy that the Federalists should retain the offices in the gift of the Government. In his reply, he said,—“When it is considered that during the late Administration those who were not of a particular sect of politics were excluded from all office; when by a steady pursuit of this measure, nearly the whole offices of the United States were monopolized by that sect; when the public sentiment at length declared itself and burst open the doors of honor and confidence to those whose opinions they approved,—was it to be imagined that this monopoly of office was to be continued in the hands of the minority? Does it violate their *equal rights* to assert the same rights in the majority also? Is it *political intolerance* to claim a proportionate share in the direction of the public affairs? If a due participation of office is a matter of right, how are vacancies to be obtained? Those by death are few; by resignation, none. Can any other mode than that of removal be proposed? This is a painful office, but it is made my duty, and I meet it as such.

I proceed in the operation with deliberation and inquiry, that it may injure the best men least and effect the purposes of justice and public utility with the least private distress; that it may be thrown as much as possible on delinquency, on oppression, on intolerance, on anti-revolutionary adherence to our enemies."

Jefferson exhibited no proscriptive principle in making his appointments. He was not, at all times, tempered with party bitterness, but looked upon a reappointment to many of the offices as a matter of justice. He could not be blamed, nor could the occupancy of offices by members of the dominant party be attributable to him. Washington had made the first appointments; they were exclusively of the Federal party. John Adams, in filling the new offices as well as vacancies that had occurred, confined himself rigidly to the Federal party. When Jefferson was brought into office by the opponents of the Federal party, he found an entire monopoly in the hands of the enemies of his administration. No blame then can rest upon him in effecting an equilibrium in the benefits of the Government, in rewarding the supporters of his principles. The example of exclusive party appointments, had been established in the administration of Washington; it had been sustained by John Adams. The practice of removal from office with the success of parties in the Presidential elections has been carried to unjustifiable extremes; yet to a certain extent it must be tolerated, as it was necessarily interwoven with party success, and was demanded as a principle of republican purity and equality when the first revolution took place in the political history of the Government. Jefferson did not pursue it with partisan feeling, but, lamenting the duty imposed upon him, he acted with mildness and consideration, leaving many worthy incumbents of the Federal party in the enjoyment of their offices, and removing those who were mostly corrupt, or inefficient from age or otherwise.

Compared with latter years, the removals by Jefferson were few, and it is historically incorrect, as it is unjust, to attribute to him the origin of that abhorrent doctrine which has been attempted by prejudiced writers, that "to the victors belong the spoils." Jefferson exhibited his moderate feelings by bestowing office upon many worthy men who had opposed his election, but afterwards became members of his party.

John Adams, with a view of filling every office with members of the Federal party, had continued making appointments

up to the last hour of his administration. Jefferson entertained an erroneous opinion in reference to many of these appointments, and refused to allow the delivery of many commissions which had been signed by the late President. Since the 14th of February, on which day the balloting commenced in the House of Representatives for President, he withheld the commissions of certain magistrates appointed for the District of Columbia. Marbury, one of the magistrates, applied to the Supreme Court for a writ of *mandamus*, to Madison, the new Secretary of State, to deliver his commission. After an elaborate investigation of constitutional law, the court refused the motion;\* which opinion, though strictly correct in law, sustained an arbitrary exercise of temper in the President, which rarely marked his official conduct. In reference to these appointments, Jefferson thus expresses himself,—“Mr. Adams’s last appointments, when he knew he was naming counselors and aids for me and not for himself, I set aside, as far as depends on me. Officers who have been guilty of gross abuses of office, such as marshals packing juries, &c., I shall now remove, as my predecessor ought in justice to have done. The instances will be few, and governed by strict rule and not party passion. The right of opinion shall suffer no invasion from me. Those who have acted well, have nothing to fear, however they may have differed from me in opinion.”†

It will be seen by reference to the letter last quoted, and those referred to in the note, that Jefferson exercised a mild and judicious course in making his appointments. So far from being obnoxious to proscriptive doctrines which many have endeavored to trace directly to his policy, the Federal party of that day were in many instances inclined to feel that the President was using his influence to win them over to his support.

The Seventh Congress assembled. The influence of the Presidential election and the odium of the late Administration, had been the means of placing the existing Administration in a handsome and imposing majority. The Senate stood, eighteen for the Administration; Federalists, fourteen. The House, sixty-nine for the Admin-

Dec. 7,  
1801.

\* Stat. Man., vol. i. p. 222; Hild., vol. ii. p. 249; Sullivan.

† Jefferson’s Cor. Letters to George Gerry, March 29, 1801. See Letters to W. B. Giles, March 23, 1801; Monroe, March 7, 1801.



istration; Federalists, thirty-six. As supporters of the Administration, there were in the Senate men of talent and influence as of the former Congress,—W. C. Nicholas and Baldwin; of the new members, Armstrong, of New York, the author of the Newbury Letters; (he resigned his seat before the end of the session and was succeeded by De Witt Clinton;) Dr. Logan, of Pennsylvania; Sumter, of South Carolina; Jackson, of Georgia, who had been a distinguished member of the First and Third Congress and late Governor of his State; and Breckenridge, of Kentucky. As supporters of the Federal party, were Chipman, of Vermont; Foster and Mason, of Massachusetts; Tracy and Hillhouse, of Connecticut; Foster, of Rhode Island; Morris, of New York; Dayton, of New Jersey; Ross, of Pennsylvania; and Willes, of Delaware. Of the new members, only three were Federalists,—White, of Delaware, Sheape and Olcott, of New Hampshire. On the side of the Administration there were in the House, as distinguished and able men of the old members,—Varnum, of Massachusetts; Gregg, Smilie, and Lieb, of Pennsylvania; Smith and Nicholson, of Maryland; Macon, of North Carolina; Giles (after an absence of two years,) and John Randolph, of Virginia. Among the new members of the same party, were Dr. Eustace, of Boston, and Dr. S. L. Mitchell, of New York; the latter was an eminent chemist, well suited for the laboratory, but had no qualifications for statesmanship.

On the side of the Federalists, of the old and distinguished members, were Griswold, Dana, Davenport, and John Cotton Smith, of Connecticut; Bayard, of Delaware; John Stanley, of North Carolina; Rutledge and Thomas Lowndes, of South Carolina. There were few new members of the Federal party, and not one distinguished. Some of the ablest supporters of the late Administration had either retired to private pursuits or received office from another source. Thacker, of Massachusetts, who had been in Congress during the administrations of Washington and John Adams, had been promoted to the bench of the Supreme Court of his State; Hartley, of Pennsylvania, was dead; Muhlenburg had received the office of Supervisor for Pennsylvania; Nicholas had removed from Virginia to New York; Harper, the leader of the Federal party, had moved from South Carolina to Maryland.\* The Federal party had become weak in numbers as in talent;

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\* Hild. vol. ii. p. 436.

the Republicans were in a decided majority, and far superior in talent and influence. Nathaniel Macon, a distinguished friend of Jefferson, and among the wisest of his supporters, was elected Speaker over Bayard, by fifty-three to forty-six votes; Benley, an old Republican, who had formerly been clerk, but ousted by the Federalists, was re-elected by a like vote.

Jefferson, immediately upon the organization of the House, sent in his first Annual Message. It had been the custom of former Administrations established at Washington for the President to deliver in person his Address to Congress. Jefferson first adopted the plan of transmitting a written communication. This communication was expected with much anxiety. It was the first from the new party, and all felt the utmost interest in its developments, and as the official standard of the Republicans in which the policy of the Administration would be made known and published to the world. Economy in the administration of public affairs was the prevailing spirit of this Message, by curtailing the diplomatic establishment, and the army and navy. It does not dispute the soundness of the doctrine of appropriations for the fortifications of harbors, but inculcates a retrenchment of expenditures. "In our case, too, of the public contributions intrusted to our direction," the President says, "it would be prudent to multiply barriers against their dissipation by appropriating specific sums to every specific purpose susceptible of definition; by disallowing all applications of money varying from the appropriation in object, or transcending it in amount; by reducing the undefined field of contingencies and thereby circumscribing discretionary powers over money; and by bringing back to a single department all accountabilities for money where the examination may be prompt, efficacious, and uniform."

Dec. 8,  
1801.

A repeal of all internal taxes the President thought advisable. "Agriculture, manufactures, commerce, and navigation," says this paper, "the four pillars of our prosperity, are the most thriving when left most free to individual enterprise. Protection from casual embarrassments, however, may sometimes be earnestly interposed." But that it must be within the constitutional power to receive aid from the Executive, is clearly indicated.

The attention of Congress is called to the Judiciary system

of the United States, especially that portion of it recently created. The law establishing the Circuit Courts of the United States, to be holden by justices not of the Supreme and District Courts, which had passed in the evening of the last Administration, Jefferson thought ought to be repealed. The opinion prevailed at the time and afterwards, that the President was not in favor of the independence of the Judiciary Department.\* Whilst the Federalists attributed this sentiment to Jefferson, yet nothing appeared in his conduct to substantiate the belief. It was said that he contended they should be of the same political views with the majority; true, and no one has ever been appointed to the Federal bench that did not belong to the party then in power.

A heavy and responsible duty rested on this Congress; work was to be done. With the aid of the President, who was pledged to place the "Ship of State on its Republican track," and produce economy and purity in the Government, the majority of the Seventh Congress ardently and faithfully addressed themselves to the task. John Randolph, the personal and warm political friend of the President, was placed at the head of the Committee of Ways and Means, who, at this time, and during the first administration of Jefferson, performed perhaps more labor than any other American parliamentarian ever did. Gifted with great fluency, ready retort, and withering wit, with no method, and without logical order, he was formidable in debate, though destitute of the highest qualifications of a first-rate debater. No one excelled him in ardent love of country, or had a higher and more liberal sense of honor and duty. The boldness and readiness he evinced, with a practical disposition and talent, blended with the most brilliant genius and sparkling oratory, made him a leader for the Administration, and threw him often in conflict with Griswold and Bayard, leaders on the part of the Federalists. The labor belonging to the committee of which Randolph was chairman may be appreciated from a reference to the following resolution that called it into being:—

"*Resolved*, That a Standing Committee of Ways and Means be appointed, whose duty it shall be to take into consideration all such reports of the Treasury Department, and all such propositions relative to the revenue as may be referred to them by the House; to inquire into the state of the public

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\* Bradford, p. 122

debt, of the revenue, and of the expenditures; and to report from time to time their opinion thereon.”\*

Gallatin, the Secretary of the Treasury, reported that the accounts of his predecessor were correct in that department; also of the State, War, and Navy departments, no delinquencies having occurred.

The mind of the Administration was immediately and ardently directed to the adjustment of the finances, and arrangements for the redemption of the debts of the Government. The Secretary of the Treasury submitted to Congress an able and full report of the history and condition of the finances. The permanent revenues of the United States, according to the laws then in force, consisted of duties on merchandise and tonnage, internal duties on stills and domestic distilled spirits, refined sugar, licenses to retailers, sales at auction and pleasure carriages, proceeds of the sales of public lands, duties on postage, dividends on shares in the Bank of the United States, and incidental items arising from fines, fees, penalties, repayments in the treasury, and sales of public property other than lands. The report estimated—

Duties on merchandise and tonnage.....	\$9,500,000
Internal duties, (stamps excepted).....	650,000
Proceeds of sales of public lands.....	400,000
Duties on postage.....	50,000

With the other estimates made by the Secretary, embracing the temporary resources of the Government,—

The revenue amounted to.....	\$10,600,000
The amount of expenditure necessary to defray the authorized expenses of the Government was estimated at.....	3,500,000

Leaving the sum of..... \$7,100,000

This amount was applicable to the payment of interest and redemption of the principal of the debt of the United States.

By printed statements of receipts and expenditures transmitted to Congress for the year 1800, it appeared that the unredeemed principal of the public debt (exclusively of the sums passed to the credit of the Commissioners of the Sinking Fund, which are only a nominal debt due by the United States to themselves)† amounted, on the 1st of January, 1801, to \$80,161,207 60. By the statement P., appended to Gallatin's report of 1801, it appeared that the unredeemed prin-

\* Journal of Seventh Congress. † Report of Secretary of Treasury, 1801.  
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cipal of the debt would be \$77,881,890 29.\* The Secretary enters into a full and lucid calculation, exhibiting the manner of the reduction of the public debt, which will be understood in detail by reference to statement S., which he appended to the same paper alluded to. It exhibits the effect produced at the end of the year 1807, by the annual application of \$7,300,000 to the payment of both principal and interest. At the end of those eight years, says the Secretary,—“It shall have paid the whole of the Dutch debt, of the temporary loans due to the bank, of the navy six per cent., and of the five and a half per cent. stock, \$5,525,300 38 of the eight per cent. stock, \$150,387 26 of the four and a half per cent. stock, and \$11,399,263 06 of the principal of the six per cent. and deferred stocks,—amounting altogether to thirty-two millions two hundred and eighty-nine thousand one hundred and fifty dollars and seventy cents. The public debt would, therefore, on the 1st of January, 1810, be reduced to \$45,592,739 59.”†

The reader will readily see my purpose in drawing his attention to this report of Gallatin, and going into statements beyond the period now before us. From it he will learn the financial character of the plans embraced by Jefferson, and on which his party in Congress at the very threshold of his Administration proposed acting in reference to the finances of the Government.

At an early period of the session of this Congress, in conformity with the views of the President, as expressed in his Message, Randolph introduced a resolution,—“That a committee be appointed to inquire whether any, and what alterations can be made in the Judiciary Department of the United States, and to provide for securing the impartial selection of juries in the courts of the United States.” This resolution was referred to a select committee, of which Randolph was chairman. On the 4th of February, he reported a bill to repeal the laws of the last session in respect to the Judiciary, which, as the reader is informed, alluded to the law establishing Circuit Courts, the judges of which had been appointed in the expiring moments of the previous Administration. This

1802.

question elicited considerable discussion. On the 3d of March the law passed, by a large majority,

\* Report of Secretary of Treasury, 1801.

† Reports on the Finances, vol. i. p. 226.

repealing the late act, and depriving the incumbents appointed by Adams of the office.\* In the House of Representatives, the great champions in debate on this bill were William B. Giles, of Virginia, who boldly and ably advocated the repeal; and James A. Bayard, the leader, and most accomplished debater of the Federal party. In the Senate, G. Morris sustained with great zeal the law of the last session creating the courts; yet he was successfully and ably met by S. T. Mason, who warmly advocated the destruction of those supernumerary courts. John Randolph, that bright yet erratic star, lent the full lustre of his genius to break up this last refuge of the broken-down party hacks of the late Administration.

It was contended by the advocates of the law creating these courts, that the increasing trade and commerce and population of the country would likewise increase the judicial business, and that public necessity required them. It was also contended that it would be unconstitutional to deprive the incumbents of their office, which was to be held during good behavior; and that it was equally, if not a greater violation of the Constitution, for the legislative branch of the Government to encroach upon the independence of the Judiciary. In reference to the first argument, experience has shown that the extensive addition to the Judiciary was not needed. The second and strongest defence was unsound. It did not violate the Constitution by making the Judiciary submissive to the legislative branch of the Government. The offices were abolished because they were useless. The Federalists charged that the object in repealing the law was to get rid of the incumbents. The Republicans exhibited no such purpose. In the language of Randolph, the chairman of the committee, by whom the law for the abolition of the courts was reported, it was admitted that such purpose would be against the spirit of the Constitution. "I am free to declare," said Randolph, "that if the extent of this bill is to get rid of the judges, it is a perversion of your power to a bad purpose; it is an unconstitutional act. If, on the contrary, it aims not at displacing one set of men from whom you differ in political opinion, with a view to introduce others, but for the general good, by abolishing useless offices, it is a constitutional act. But we are told that this is to declare the Judiciary, which the Constitution has attempted to fortify against

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\* Sixteen judges were deprived of office by the repeal.

the other branches of Government, dependent on the will of the Legislature, whose discretion alone is to limit their encroachments. Whilst I contend that the Legislature possesses this discretion, I am sensible of the delicacy with which it is to be used. It is like the power of impeachment or the declaring of war, to be used under a high responsibility."

It is obvious that the Republican party was actuated by the purest motives; nor can it be doubted that Congress possessed the constitutional power to abate a useless office. During this session of Congress the representation was apportioned according to the census of 1800, the ratio being continued at one representative for every 33,000 inhabitants. The Military Academy at West Point was likewise established; objections were raised to its establishment, but universal approbation now sustains it as among the first scientific, literary, and military schools in the world; whilst the high renown and brilliant service of the officers it has afforded our army, show its practical utility, and it is now considered by general consent indispensable to the safety of our country.

1802. The attention of Congress during the remainder of this session was chiefly occupied with the passage of certain laws for the protection of American commerce, and our seamen against Tripolitan cruisers, by whom some of our vessels had been captured.

The acts discontinuing the several acts for internal taxes on stills, distilled spirits, refined sugars, carriages, stamped paper, licenses to retailers, and sales at auction, were passed at this time.

A law was passed for the redemption of the public debt, appropriating annually seven millions three hundred thousand dollars to the sinking fund.

April 26. At this time, and a few days before the close of the session, the President communicated to Congress the treaty between the United States and the State of Georgia, embracing that portion of territory lying between the Mississippi and Chattahoochee, which had been made between the commissioners of that State and the United States, the latter consisting of the Secretary of State, the Secretary of the Treasury, and the Attorney-General. Georgia ceded to the United States all her claim to the territory west of her present boundary, which extended to the Mississippi River, embracing nearly four degrees of latitude, and now constitutes the States of Alabama and Mississippi, placing in the hands of

the General Government about one hundred thousand square miles.\* This act of the General Government cannot be considered in the light of the acquisition of territory, or even an extension of the territory of the United States; yet it was the first effort the United States Government had made towards the acquisition of territory for its sole governance, since the cession of Kentucky and the Northwest Territory. The transfer of this territory, as in all other instances, has operated to the great advantage of the territory transferred, as well as to the grandeur of the Union. This territory was received on the terms and conditions of the ordinance of 1787, except the prohibition of slavery.†

A new and important step was taken at this session of Congress, which, as the result of a political principle established in the Constitution, was for the first time to be brought into practical operation. The first fruits of the expansive principle of the Government of the Union was now to be realized, and every succeeding effort to enlarge the area over which our Republican Constitution spreads its benign influence has demonstrated the true philosophy and philanthropy of this principle in the Government of the United States. The territory northwest of the Ohio River, by the late census, contained a population sufficient to entitle it to admission into the Union as one of the United States. An act was accordingly passed in obedience to the Constitution, authorizing the people of the eastern division of the territory northwest of the Ohio River to form a constitution and organize a State government, which was done in convention, begun and held at Chillicothe on the 1st of November, 1802.

The eastern division of the Northwestern Territory, which constituted the State of Ohio, contained about 40,000 square miles, lying in a compact form nearly in the shape of a square, with a geographical position and fertility of soil, that accounts for the rapid development of its resources and unparalleled increase of population. Its commercial intercourse with the States is eminently favored by its access to the Ohio River, which forms its south and southeast boundary, and Lake Erie, which forms more than one half of its northern boundary. The remainder of the territory was to be annexed to Indiana.

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\* Hild. Hist. of the U. S., vol. ii. p. 447.

† Journal of Congress, sessions 1801-2.



In consideration of an act passed by the State, exempting from taxation for four years all lands newly purchased of the General Government, Congress proposed in return to grant one township in each section of land for the support of schools, which amounted to one thirty-sixth part of the lands in the State, besides five per cent. of the proceeds of all lands sold to be laid out for the construction of roads; three per cent. of it, by a subsequent act, to be expended within the State, and two per cent. upon roads leading to the State from the eastward.

The progressive population of the State of Ohio is an unmatched phenomenon in the history of colonization. In 1783, the area it now embraces was a wild waste, and untrod wilderness; its immeasurable forest echoed only to howling beasts, whilst Ohio's giant tide rolled onward to the ocean, its restless surface scarce ploughed by the light canoe of the savage Indian. In 1790, only 3000 civilized inhabitants were found within its boundaries; in 1800, the population had increased to 42,156; in 1810, it was 227,843; in 1820, it contained 275,965; in 1830, it had swollen to 479,713; in 1840, it numbered upon its generous soil 775,360 inhabitants. The banks of its majestic river, but a few years back lonely and desolate, save the noble forest that waved in melancholy grandeur over its swelling tide, is now studded with thriving towns and cities, and its mighty waters are daily bearing its commerce and its wealth to the remotest inhabitants of the earth. In 1850, according to the report of the last census, it presented a population of 1,980,408.

The progress of the State of Ohio presents a beautiful picture of the enterprise, intelligence, and success of the American citizen, (as would be the case with mankind,) left free to shape his destiny and struggle for fortune and fame, even against the pinchings of poverty, under the administration of laws spurning a systematic favoritism like that of the Old World,—instead of extending, as does our own Government, the power and influence that belongs to it, to nurture, cherish, and protect every interest, and uphold the rights of every being, leaving the industrious, the virtuous, and the talented, to win for themselves such distinction and privilege as they alone can achieve and maintain.

At this session an effort was made to discontinue the coinage of metals and abolish the mint, because its maintenance was considered too expensive. A bill for that purpose passed the House of Representatives, but was defeated in the Senate.

A proposition was made before the close of this session, which had nearly expired, to abolish the Navy Department and place its concerns under the Secretary of War, but it signally failed. This effort was probably suggested with a view to meet the approbation of the President, whose opinions were several times variant upon the subject of the navy, though during the first administration of the Government, Jefferson had been a warm advocate of the navy.

Jefferson, in answer to a letter from John Adams making certain inquiries in reference to the navy, and in which Adams gives his own name as authority, that Washington was adverse to a navy, the proof of which he had from his own lips in many different conversations, wrote,—“Your recollections on that subject are certainly corroborated by his known anxieties for a close connection with Great Britain, to which he might apprehend danger from collisions between their vessels and ours. Randolph was then Attorney-General, but his opinion on the question I also entirely forget.” Jefferson had advocated the building of vessels to be sent to the Mediterranean, which had been done. “I thought,” he says afterwards, “that the public safety might require some additional vessels of strength, to be prepared and in readiness for the first moment of war, provided they could be preserved against the decay which is unavoidable if kept in the water, and clear of the expense of officers and men. With this view I proposed they should be built in dry docks, above the level of the tide-waters, and covered with roofs. I further advised that places for these docks should be selected where there was a command of water on a high level, as that of the Tiber at Washington, by which the vessels might be floated out on the principle of a lock. But the majority of the Legislature was against any addition to the navy, and the minority, although for it in judgment, voted against it on a principle of opposition. \* \* \* Yet a navy is a very expensive engine. It is admitted that in ten or twelve years a vessel goes to entire decay, or if kept in repair, costs as much as would build a new one; and that a nation who could count on twelve or fifteen years of peace, would gain by burning its navy and building a new one in time. Its extent, therefore, must be governed by circumstances.”\*

This, it appears, is the last written evidence of Jefferson's

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\* Jefferson's Correspondence, vol. iv. p. 356.

opinion on this subject. His mind certainly changed more than once on this question, sometimes clearly seeing its value and being its ardent advocate, at others alarmed at the burdensome expense and its exposing the country to collisions with other naval powers. It appears that Jefferson's mind became more convinced of the absolute necessity of the navy after the brilliant results of the last war with England.\*

1802. The second session of the same Congress assembled on the 6th of December; much existed and was communicated to Congress, not only to attract its attention, but to excite the minds of the people. The navigation of the Mississippi and the cession of Louisiana to France, were the chief questions that pressed upon the present national councils with the deepest interest and anxiety.

1802. In October, during the recess of Congress, Don Morales, Intendant of Louisiana, had issued a proclamation excluding that port as a depot for our commerce, in palpable violation of the treaty of 1795 between this country and Spain; especially as the Intendant had failed to designate any other place, as was required.†

Jan. 5, 1803. Griswold offered a resolution, calling on the President for information and such official documents as had been received in reference to the cession of Louisiana to France, with a report stipulating the circumstances under which that Province was to be delivered up. On the motion of John Randolph, it was referred to a committee, and was taken into consideration with closed doors. Afterwards, upon the motion of Randolph, it was referred to a Committee of the Whole on the State of the Union, which was not done however, until after considerable discussion.

Randolph was urgent to have the doors closed. Griswold and his friends contended that it was a resolution for information, and ought to be discussed with open doors; Randolph still insisted that he had remarks to make which must be done with closed doors. "The gentleman from Connecticut is willing the resolution should be fully discussed, and therefore concludes it should not be referred to a select committee, as he is pleased to term it, where alone, as we contend, and have informed him, the discussion can take place. Sir, this may be logic, but it is new to me. A Message from the Pre-

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\* Tucker's Life of Jefferson, vol. ii. p. 448.

† Hild. Hist., vol. ii. p. 470.

sident, relative to New Orleans, has been referred to a certain committee, and we propose to refer the resolution to the same committee. Gentlemen exclaim this is denying them information; does it follow of necessity that we deny the information, because we choose to consider the subject with closed doors?"

Randolph's motion was carried; when the doors were closed he offered the following resolution,—“That this House receive with great sensibility the information of a disposition in certain officers of the Spanish Government at New Orleans to obstruct the navigation of the river Mississippi, as secured to the United States by the most solemn stipulations. That, adhering to the humane and wise policy which ought ever to characterize a free people and by which the United States have always professed to be governed; willing, at the same time, to ascribe this breach of compact to the unauthorized misconduct of certain individuals rather than to a want of good faith on the part of his Catholic Majesty; and relying with perfect confidence on the vigilance and wisdom of the Executive, they will wait the issue of such measures as that department of the Government shall have pursued for asserting the rights and vindicating the injuries of the United States; holding it to be their duty, at the same time, to express their unalterable determination to maintain the boundaries and the rights of navigation and commerce through the river Mississippi, as established by existing treaties.”

The excitement and interest manifested at the 1803.  
interruption of commerce on the Mississippi had spread among the Western people, and led to a most emphatic remonstrance from the Governor and legislature of Kentucky.

At a later period in the session, the excitement had reached to such violence in the Western country, that its influence again attracted the notice of Congress.

Ross introduced into the Senate resolutions authorizing the President to occupy New Orleans by an armed force; proposing the appropriation of five millions of dollars and the calling out of fifty thousand militia. Instead of these resolutions a substitute was adopted, from which sprung an act of Congress intrusting the whole matter to the President, with authority to direct the Governors of the States, if he saw occasion, to hold in readiness eighty thousand volun-



teers.\* The Spanish difficulties were not settled until 1818. The most important and interesting feature in the political consideration of these times,—important for the interest of America, important in the politics of Europe, as well as the results which have followed,—was the treaty by which this Government acquired Louisiana.

The President seemed to think that it was the object of the Federal party to force the country into war with Spain, thinking it would result in derangement of the finances, which might make their measures for a time popular, as are the nauseating articles of the drug-shop popular in cases of bodily derangement; or, if that could not be done, “to attach the Western country to them as their best friends, and thus get again into power.”

Jefferson's policy was pacific, and later times prove the wisdom that guided him; to effect which purpose he appointed

James Monroe Minister Plenipotentiary to France,  
 Jan. 10, 1803. to act with Livingston, resident Minister at Paris,  
 in the purchase of New Orleans and the Floridas.†

The nomination was confirmed, and, at the request of the President, two millions of dollars were appropriated to the mission. The instructions to our Ministers did not embrace Louisiana, but only asked for the cession of New Orleans and the Floridas; and that the course of the Mississippi should be divided by a line that would place New Orleans in the territory of the United States, securing to this country the free navigation of the Mississippi.

Jefferson, who had received information of the cession of Louisiana to France, wrote to Livingston, giving his views in reference to the feelings of the people. It worked sorely upon the United States. He said to him, if France considered Louisiana indispensable for her views, she might, perhaps, be willing to look about for arrangements which might reconcile it to our interest. If anything could do this it would be ceding to us the island of New Orleans and the Floridas.‡

Livingston entertained the opinion, in common with others at the time, especially Ross, of Pennsylvania, and Morris, of New York, that we would never be able to acquire New Orleans by treaty, and that it ought to be taken by force. The history of the question shows that Livingston was in great con-

\* Hild. Hist., vol. ii. p. 470.

† Stat. Man., vol. i. p. 233.

‡ Jefferson's Correspondence, vol. iii. p. 493.

fusion and ignorance, and indifferently qualified to carry a negotiation with the artful and subtle French.

Napoleon was at the time first Consul; peace had rested momentarily over the troubled spirit of Europe, but only for a moment; another flame of war was just about bursting forth, in which France and England were to constitute the chief elements. Napoleon was willing to treat for Louisiana at the very time that Livingston thought New Orleans was to be taken by force.

M. Baché Marbois enjoyed to a high degree the confidence of Napoleon, and was intrusted with the negotiation on the part of the first Consul. The Marquis de Marbois had ample opportunities to understand the question in all its bearings, having resided near Philadelphia during the progress of our Revolution. The following extract, taken from his history of Louisiana, will throw considerable light upon the views of Napoleon. Speaking of this treaty,—“Irresolution and deliberation,” said Napoleon, “are no longer in season. I renounce Louisiana; it is not only New Orleans that I will cede, it is the whole Colony, without any reservation. I know the price of what I abandon, and I have sufficiently proved the importance that I attach to this Province, since my first diplomatic act with Spain had for its object the recovery of it. I renounce it with the greatest regret. To attempt to retain it would be folly. I direct you to negotiate this affair with the Envoys of the United States. Do not even wait for the arrival of Mr. Monroe; have an interview this very day with Mr. Livingston. But I require a great deal of money for this war, and I would not like to commence with new contributions. If I should regulate my terms according to the value of these vast regions to the United States, the indemnity would have no limits. I will be moderate in consideration of the necessity in which I am making a sale; but keep this to yourself. I want fifty millions [francs,] and for less than that sum I will not treat; I would rather make a desperate attempt to keep those fine countries; to-morrow you shall have full powers; Mr. Monroe is on the point of arriving. To this Minister the President must have given secret instructions more extensive than the ostensible authorization of Congress for the stipulation of the payments to be made. Neither this Minister nor his colleague is prepared for a decision, which goes infinitely beyond anything that they are about to ask of us. Begin by

making them the overture without any subterfuge. You will acquaint me day by day, and hour by hour, of your progress. The cabinet of London is informed of the measures adopted at Washington, but it can have no suspicion of those that I am now taking. Observe the greatest secresy, and recommend it to the American Ministers; they have not a less interest than yourself in conforming to this counsel. You will correspond with M. de Talleyrand, who alone knows my intentions. If I attended to his advice, France would confine her ambition to the left bank of the Rhine, and would make war to protect any dismemberment of her possessions. But he also admits that the cession of Louisiana is not a dismemberment of France; keep him informed of the progress of this affair."\*

The interview between Marbois and Livingston in reference to the negotiation commenced on the same day. It presents a singular feature that Jefferson should express such anxiety and fear, and Napoleon the utmost desire to part with it; whilst our Minister, Livingston, thought it could only be taken by force. Livingston, who had resided about two years at Paris, had failed in a great measure to secure the friendship and strict confidence of the Government. His powers were not extensive enough to enable him to treat for Louisiana, his mission being intended originally to obtain indemnities claimed by citizens of the United States for prizes made by the French.

The responses made to the American Minister had been vague and uncertain, which, indeed, made him distrustful that any negotiation was intended. When the proposition for the cession of the entire territory was made by Marbois, it was received with very little confidence. The negotiation was conducted under the immediate eye of the first Consul, and though Marbois was instructed to demand and not receive less than fifty millions of francs, yet the sum demanded was so vague that it appeared impossible to learn the determination of the negotiation. Livingston refused to go beyond thirty millions of francs.

Whilst these preliminary questions were pending  
April 12,  
1803. Monroe arrived at Paris. Livingston remarked to him that he wished "the resolution offered by Mr. Ross in the Senate had been adopted; only force can give us

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\* Marbois's History of Louisiana.

New Orleans." Monroe, more of a diplomatist than Livingston—indeed, surpassed by none—sought a conference the next day with Marbois. The powers of Monroe and Livingston were blended and common to each. The American and French Ministers were equally interested and anxious to bring the negotiation to a successful termination. Marbois, who had for upwards of thirty-five years been engaged in various highly important political business, was personally acquainted with Monroe, and conversant with American affairs. Diplomacy seemed forgotten in the breast of Marbois, who frankly opened to the American Ministers his proposition, which, instead of being confined to New Orleans and a small territory, embraced a large and valuable country; they only wanted the right to navigate the Mississippi; they were offered the sovereignty of the largest river on the continent. Deliberation was rapid, though mixed with some astonishment. Monroe's presence seemed to throw a charm over the negotiation. The Ministers from America had authority only to treat for an arrangement respecting the use of the left bank of the Mississippi, embracing New Orleans. The mission had three objects,—first the cession, secondly the price, and finally the indemnity due on account of captures by the French of American vessels and goods. The American Ministers determined to treat as was proposed by the French Ministers; yet the question was not free from embarrassment, as they were about to go beyond the contemplated range of the mission. They saw the exigency that rested on France, and that quickness was essential. It was impossible to communicate with the home Government; France was on the very brink of war with England, and before the American Ministers could have had their powers amplified, it might have been too late.

The responsibility was assumed of treating for the purchase of the entire Colony, and the terms were easily adjusted.\* It was desirable to obtain the assent of Spain, a right of preference being reserved by that power by the treaty of 1800; delay might defeat the negotiation, consequently the Spanish Court knew nothing of what was going on until the treaty was concluded and sent over. Spain complained and obstinately refused to give approbation to the treaty, until on the 10th of February, 1804, Don Pedro Cavallos addressed a

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\* Marbois's History of Louisiana.



letter to Mr. Pinckney, United States Minister, that "his Catholic Majesty had thought fit to renounce his opposition to the alienation of Louisiana, made by France, notwithstanding the solid reasons on which it is founded; thereby giving a new proof of his benevolence and friendship to the United States."\*

M. de Marbois insisted on eighty millions of francs, which were given, on condition that twenty millions of this sum should be assigned to the payment of what was due by France to the citizens of the United States, which, being agreed to, the treaty was immediately ready for ratification on the part of the American Congress.

April 30  
1803.

The terms of the treaty were short and simple. For the payment of sixty millions of francs, it was agreed that the Government of the United States was to create a stock of eleven millions two hundred and fifty thousand dollars, bearing six per cent. interest per annum, payable half yearly in London, Amsterdam, or Paris; the principal of said stock to be reimbursed at the Treasury of the United States, in annual payments of not less than three millions of dollars each, of which the first payment was to commence fifteen years after the date of the exchange of ratifications. The stock to be transferred to the Government of France or their agents, in three months after the exchange of the ratification of the treaty, and after Louisiana should be taken possession of by the United States.

The treaty was received in the United States with a great degree of satisfaction on the part of a large portion of the people; yet it met with a bold and decided opposition from the Federal party.

July, 1803.

Jefferson convened Congress at an earlier day than the commencement of the regular session, to take those ulterior measures which were necessary for the immediate occupation and temporary government of the newly-acquired territory. The treaty was immediately laid before

October 17.

the Senate, and after two days' debate its ratification was advised by that body by a vote of 24 to 7.† Dayton was the only Federal Senator who voted for it. The question was not yet divested of difficulty and vexation. It was to come before the other branch of the Legislature, not

October 20.

\* Marbois's History of Louisiana.

† Hild. Hist., vol. ii. p. 487; Stat. Man., vol. i. p. 238.

for ratification, but to make the necessary provisions to carry the treaty into effect. The ratified conventions were communicated to the House, with a message from the President urging the necessity of its co-operation, there being important conditions that could not be carried into execution without legislative aid.

Griswold immediately moved a call upon the President for a copy of the treaty between Spain and France, upon which depended the right of the latter, and such evidence as he might have that Spain was ready to deliver up the ceded territory. He contended that the treaty before the House recited only a provisional agreement on the part of Spain to cede Louisiana to France. There had as yet been no evidence that the treaty had been made, it having been from the beginning suppressed, though the fact was known to the Executive; nor had Spain given her assent to the treaty then before the House, but madly refused so to do. Griswold's motion failed by a majority of two votes.

A resolution was immediately offered by John Randolph, making provision for carrying the treaty into effect. This resolution induced an excited debate. It was opposed by the Federal party on two grounds,—its being unconstitutional to receive into the Union, whether by treaty or otherwise, foreign territory and people; and that the territory of the United States was sufficiently large for a republican Government. An extensive territory, it was thought, would endanger the Republic and require a strong arm, perhaps a military force, to preserve order. The special provision to France and Spain in reference to the trade with Louisiana was another point of decided objection, as introducing an unconstitutional discrimination between different parts of the Union. Randolph, who boldly and eloquently led in this debate, sustained the constitutionality of the treaty; whilst others, though less gifted, brought the force of their talent to sustain this important and vital question.

No one touched the question of the constitutional right to vote money for a purchase of territory. The Federalists could not have denied it without the grossest inconsistency, whilst the Republican party felt no doubts on a question which would evidently have involved the fate of the treaty. Randolph was at the time chairman of the Committee of Ways and Means. He used the utmost exertion to procure the necessary steps for completing this great effort. His resolution

was finally adopted by a vote of 90 to 25, and the bills requisite for a final completion of the treaty speedily passed.\*

The first Consul in a short time saw the imprudence of an act he at one time was so anxious to consummate. It was a blunder to part with so large and rich a tract of country, rich in every commercial view, as well as of the highest political importance.

The acquisition of Louisiana to the United States was the most important and valuable effort our Government had ever made, standing next in importance to the very instrument that called this Government into life, and now sustains it as a free, prosperous, and happy Republic.

Jefferson saw at a glance its importance when he said he would not give "an inch of the waters of the Mississippi to any nation."† By the acquisition of this territory we have forever prohibited any other nation from inhabiting and appropriating the most valuable portion of our continent, and avoided the interminable evil of having a neighboring nation almost in our midst.

We acquired upwards of a million of square miles, with upwards of ninety thousand inhabitants, including about forty thousand slaves. We acquired, which was the most brilliant feature of the event, the navigation of the Father of Waters,—the sovereignty of the waters of the Mississippi giving an outlet for the produce of what is now the mightiest agricultural portion of the world, a large portion of the western and southern part of the United States; an uncontrolled and unlimited navigation through the entire waters of this noble river, free from collision with other powers, offering no danger to our peace; placing under our control the fertility of a soil and the bountifulness of a climate unsurpassed by any on the globe. Remotest posterity will rejoice in contemplating the wisdom and policy of the act, whilst this wide-spread field for the blessings of civil liberty and equal laws will ever bloom and flourish as a living evidence of this master-stroke of legislative wisdom.

As I have stated, difficulties clustered around the acquisition of Louisiana. Was it to be measured by the boundaries prior to 1763, or its limits to be defined in accordance with the

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\* Bradford, 128; Hild. Hist., vol. ii. 488; Stat. Man., vol. i. 238; Life of Randolph, vol. i. 194.

† Jefferson's Correspondence, vol. iii. p. 511.

Spanish possession? The treaty was not sufficiently precise, embracing "the Colony or Province of Louisiana, with the same extent as it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States." Under the original boundaries of the French title, it embraced both banks of the Mississippi, extending east to the River Perdido, which formed the boundary between it and the Spanish Province of Florida. When Spain received it, it was bounded on the east by the Lakes Pontchartrain and Borgne, and the Mississippi River. The more eastern portion had been previously yielded up to Great Britain, under whose authority it had been erected, along with the country about Pensacola, ceded at the same time by Spain, into the English Province of West Florida.

By the treaty of 1783 the Floridas had been restored to Spain; but the division into the Eastern and Western Province, first made by the English, had been kept up; and West Florida at the date of the late treaty embraced territory south of the thirtieth degree of north latitude and east of the Mississippi and the two lakes, which in former times had belonged to Louisiana.\*

Strong reasons existed why this section of the original Louisiana should not remain under the control of Spain; it would subject our commerce and trade to many embarrassments; for the original purpose of our Government had been to obtain this tract with the island of New Orleans, to secure the entire command of the Lower Mississippi, and the land communicating between New Orleans and Natchez.

Livingston contended that the treaty embraced all of Louisiana originally possessed by France, except such as Spain might by subsequent treaties have alienated to other nations. He urged the President to act under that interpretation and take possession of the disputed territory, as he should have done, though it might have involved us in difficulty with Spain; not that this Government by any forced construction or unjust avarice should assert a groundless claim, but Louisiana, under its original boundaries, was the subject and the object of the treaty, and it belonged to the Government, with the exception of such portions as above stated, which Spain had, previous to her late treaty with France,

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\* Hild. Hist., vol. ii. second series, p. 491.



alienated otherwise.\* Jefferson was, however, content to accept, as he did, the formal delivery of the Island and City of New Orleans, which was made by Laurat on the 20th of December, leaving the left bank of the lakes and of the river above, in possession of the Spaniards.† This peaceful annexation and its happy results show the wisdom and policy of the Republican party of that day, as compared to the wild schemes of the Federalists, then lingering in corruption in their very last days, who had been anxious that it should be taken by force; whilst at the same time they opposed the treaty and opposed the appropriation of the necessary sums to make the payment for it.

It is a matter of surprise that Jefferson should have thought the purchase of Louisiana unconstitutional. In his letter to Breckenridge, he remarks,—“The Constitution has made no provision for our holding foreign territory, still less for incorporating foreign nations into our Union. The Executive, in seizing the fugitive occurrence which so much advances the good of their country, have done an act beyond the Constitution.”

Rather than make it appear right from extreme necessity or future advantage, it is more statesman-like to place it upon a just and constitutional basis; whilst the doctrine of expediency, when opposed to moral right, always inflicts a dangerous wound, and can only be justified by the most extreme necessity, and ultimately opens the way to the moral and national degradation of the human race.

In my opinion, it is a clear constitutional right to acquire territory under the treaty-making power; the very manner in which Louisiana was acquired, and the only constitutional way in which it could be done.

The President has power by and with the advice and con-

\* The boundaries of Louisiana were always a subject of great confusion. It appears to have been considered as extending to the Perdido, which formed the eastern boundary. The Colorado originally formed its western boundary; on the north it extended to Winnipeg River and Lake, which made it originally a very extensive country. *Vide* Am. ed. of the Edinburgh Enc. title La., and Humboldt's Essay on the Kingdom of New Spain.

† The territory as received from France comprehended all the lands on the east side of the Mississippi River not then belonging to the United States as far as the great chain of mountains which divides the waters running into the Pacific and those falling into the Atlantic; and from said chain of mountains to the Pacific between the territory of Great Britain on the one side, and that claimed by Spain on the other.

sent of the Senate, to make treaties, provided two-thirds of the Senators present concur. This is the voice of the Constitution. What limit does it place upon the treaty-making power? None whatever. There is no limit to the exercise of this power, when reduced to any particular case; but it is to the form of executing the power, which is the simple concurrence of two-thirds of the Senate. I do not say there is no check or restraint upon the functions of the Government; for there is this limit, that it cannot be exercised in the destruction of, or opposition to, any known constitutional right or power, and must be subservient to every other right recognized. But if the exercise of the treaty-making power does not conflict with some right or come in opposition to some class of powers specified in the Constitution, there is no restraint upon its employment whenever used according to the *form* of the Constitution.

"The power," says a distinguished writer, "to make treaties is by the Constitution general; and of course it embraces all sorts of treaties,—for peace or war, for commerce or territory, for alliance or succors for indemnity, for injuries or payment of debts, for the recognition or enforcement of principles of public law, and for any other purposes which the policy or interest of independent sovereigns may dictate in their intercourse with each other."\* Yet, says the same author, "a power general and unrestricted cannot be construed to destroy the fundamental laws of the State."

No given power can destroy any other power. To what power given in the Constitution does the exercise of the treaty-making power (as far as the acquisition of territory is concerned) present itself in opposition? None.

It is a correct view, as well as a safe one, in reference to the exercise of the treaty-making power to sustain it unless it infringes some other power.

In reference to the question under consideration, it may be asked what power, (if any) in its lawful exercise, does this mode of acquiring territory oppose? None. We must conclude then that it is clearly constitutional.

As long as the power of making treaties is considered inseparable from national sovereignty,—and it must be so considered, or else its influence is nothing,—it must be admitted that no reasonable restraint can be placed upon it,

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\* Story's Com. on the Constitution, p. 552.

except that of those powers necessary for the exercise of the Government which are in opposition to it, and which our Government clearly specified in the Constitution.

It is a power that can never be definitely defined. How circumscribe it, when it must be applicable to all times and circumstances? It must be as the Constitution intended it,—general and unqualified.

It was often said that if this construction be admitted, no limit or restriction can be placed upon its range. This, however, is an error which a moderate capacity can perceive. There are certain great purposes for which the Constitution was formed and which it recognizes. The treaty-making power must be subservient to the leading features of our Government and of any other class of powers. Its sphere is exterior concerns; interior ones are provided for otherwise; the class of powers to which it must yield its homage and obedience are such as relates to the domestic operations of the Government.

Jefferson entertained another opinion equally erroneous, that it could not be constitutionally acquired by purchase. This was a most contradictory position and can never be reconciled with the faculty to possess foreign territory even under the class of powers incident to war or conquest; refusing the right of giving or retaking more or less by means of a money-payment, which would be a purchase in principle and reality. Suppose war had ensued,—for this territory we could not have refused to make all necessary appropriations; yet it would be but an indirect form for the exercise of that prerogative which would be denied in its direct and obvious meaning. I hope it will no longer bear the stain of unconstitutionality. Louisiana was acquired in a constitutional manner, and it is to be regretted that the author of this magnificent achievement was the principal person to affix the stigma of an illegitimate acquirement on a trophy he had consecrated to his country, and is preserved to this day as the richest jewel in the casket of his fame.

1804.

In the early part of this session of Congress a proposition was made to change the Constitution in reference to the election of President and Vice-President, so as to designate which person was to be voted for as President, and which for Vice-President, instead of the original provision which required the electors to vote for two persons, and the one having the largest number of votes to be Presi-

dent. The want of wisdom in the existing plan had been manifested in the recent effort in the House of Representatives between Jefferson and Burr, as well as the disappointment and injustice likely to arise in after years by the promotion of a person to the Presidential chair, when a large portion, perhaps a majority of the people, would have desired him to fill the chair of Vice-President.

The proposition was opposed by the Federalists as an unnecessary innovation upon the Constitution, which should not be disturbed for slight causes; that the effort to change the Constitution was the result of party feeling and the desire to please an individual and his party friends.

The opponents of the measure contended that it made but little difference which was chosen of the two; that either would be qualified for the post of President. When Washington and Adams were voted for in 1788, either were qualified for the Presidency; also in 1800 when Adams and Pinckney were the candidates of one party, and Jefferson and Burr of the other.

It should be remembered though, that the popular voice of the country never designed Burr for President, and it would indeed have been an outrage upon the popular sentiment of that day had Burr been made President, even had he been deserving the office and had maintained his integrity. It was likewise apparent that the mode proposed was plainer and more simple than the existing one.

The proposed alteration was agreed to by two-thirds of both branches of the Legislature; being a strict party vote, the Federalists opposing it and mingling in their opposition great personal hatred to Jefferson. The amendment was exceedingly popular with the States, being ratified by a vote of thirteen to three. The States that opposed it were still strongly Federal in their political bearing,—which were Massachusetts, Connecticut, and Delaware.\* This amendment now forms the Twelfth Article of the Amendments to the Constitution. In a public notice of the Secretary of State, dated the 25th of September, 1804, it was announced as having been duly ratified.

At the present session of Congress, the Republican party succeeded in raising the salaries of the principal officers of the Government.

1804.

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\* Bradford, p. 131; Stat. Man., vol. i. p. 241.



The expenses of the naval establishment necessary to be sustained in the Mediterranean required additional duties to be laid on imports. The force stationed in that sea, though not a large one, was efficiently kept up and proved sufficient to check the depredations upon our commerce, which had been exceedingly annoyed by the excursion of pirates that hovered in swarms upon the waters of the Mediterranean.

During this session of Congress an alteration was made in the law upon naturalization of foreigners; the time required previous to their becoming citizens being reduced from fourteen to five years, which was the original provision of the law allowing foreigners to be naturalized. The Federal party opposed the introduction of a law that shortened the time from fourteen years. It was deemed unreasonable; unjust to the home-born citizen and dangerous to the Republic to allow free and equal advantages to the foreigner in participating in the exercise of our Government before he had lost the habits of a kingly Government, or overcome the prejudices of both, or learned to understand, to appreciate, and to love the spirit and the form of freedom as seen and felt under our national Constitution.\*

An additional law was passed at this session of Congress for the government of the Territory of Louisiana, creating two Territorial governments, and dividing them into the districts of Orleans and Louisiana. Over the Territory of Orleans was thrown a government, with the executive power vested in a Governor appointed by the President, who was commander of the militia, with power to grant pardons for offences against the Territory, and reprieves for those against the United States, until a decision could be made by the President. The legislative power was vested in the Governor, and thirteen members formed the Legislative Council, and were annually appointed by the President. The Judiciary consisted of a Superior Court of three Judges, and such inferior courts as the legislature might see fit to appoint. The Governor, Secretary, Judges, District-Attorney, Marshal, and all general officers of the militia were appointed by the President.

The remainder of the territory acquired from the French was formed into the Territory of Louisiana, but was subjected

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\* Bradford, p. 132.

to the Territorial government which was then applied to Indiana.\*

The form and character of the governments for the Territories were exceedingly simple and plain. By virtue of the Constitution, Congress has "power to dispose of and make all needful rules and regulations respecting the territory or other property of the United States;" which provision places the territory of the United States under the control of Congress as the property thereof; and the appointing power, which is exercised by the President, takes from the people of the Territory all voice in the government. The provision of the Constitution giving Congress such power, is in strict consistency with the recognition of the fact that it is the property of the United States and should be above the influence of sectional legislation, and managed for the benefit of the whole Union in such manner as Congress should think proper.

At this session of Congress much excitement was created by the impeachment before the Senate of Judge Pickering, of the District Court of the United States for New Hampshire. The proceedings were instituted by the House of Representatives, charging him with a sacrifice of the rights of the United States in certain revenue cases that had been tried before him, and also with drunkenness and profanity on the bench. The judge would not appear in person or defend himself; though his son presented a petition, alleging that Judge Pickering was insane, and praying that counsel might be heard in his defence. This was allowed, though not without opposition, and several depositions were read for the purpose of proving that the judge was insane; yet it was asserted that his insanity was produced by intemperance. Pickering was impeached by a party vote, every Federal Senator voting against the impeachment. It was manifested that corruption had found its way upon the bench, and crime had stained the ermine of justice. A higher functionary than Pickering, one of the ablest props of the late Federal Administration of John Adams, had likewise fallen from the high position of a pure and upright judge. In looking to the highest and first judicial station on the globe,—the Supreme Court of the United States,—the man of purity is grieved to find that even there vice and corruption had dared

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\* Laws of the United States, March 26, 1804.

intrude, and plant its destructive principles where hitherto purity and firmness had stood; the one unsullied and the other immovable. Samuel Chase had imbibed the ungovernable prejudices with which the lingering remains of Federalism had become tainted,—for it was a pure party in the days of its early manhood. He consequently was to be tried before the Senate of the United States upon articles of impeachment preferred against him by the House of Representatives.

The chief credit of this impeachment is due to John Randolph, whose bold and undaunted spirit, sustained by his own matchless eloquence and sarcasm, first brought to the eye of the House the corruption with which Chase was to be charged.

Randolph,—his form thin and shadowy from disease and labor, his face pale and haggard from intense thought and reflection, but with an eye bright and unquailing,—rose from his seat determined to meet the fire he knew his remarks and resolution would kindle, and said,—“That no people were

1804. more fully impressed with the importance of preserving unpolluted the fountain of justice than the citizens of these States. With this view the Constitution of the United States, and of many of the States also, had rendered the magistrates who decided judicially between the State and its offending citizens, and between man and man, more independent than those of any other country in the world, in the hope that every inducement, whether of intimidation or seduction, which could cause them to swerve from the duty assigned to them, might be removed. But such was the frailty of human nature, that there was no precaution by which our integrity and honor could be preserved in case we were deficient in that duty which we owed to ourselves. In consequence of this unfortunate condition of man, we have been obliged but yesterday, to prefer an accusation against a judge of the United States who has been found wanting in his duty to himself and his country. At the last session of Congress, a gentleman from Pennsylvania did, in his place (on a bill to amend the judicial system of the United States,) state certain facts in relation to the official conduct of an eminent judicial character, which I then thought and still think, the House bound to notice. But the lateness of the session (for we had, if I mistake not, scarce a fortnight remaining,) precluding all possibility of bringing the subject to any efficient result, I did not then think proper to take any steps in the business. Finding my attention, however, thus

drawn to a consideration of the character of the officer in question, I made it my business, considering it my duty as well to myself as those I represent, to investigate the charges then made, and the official character of the judge in general. The result having convinced me that there exist grounds of impeachment against this officer, I demand an inquiry into his conduct, and therefore submit to the House the following resolution:—

“*Resolved*, That a committee be appointed to inquire into the official conduct of Samuel Chase, one of the Associate Justices of the Supreme Court of the United States, and to report their opinion whether the said Samuel Chase hath so acted in his judicial capacity as to require the interposition of the constitutional power of this House.”

With an amendment offered by Mr. Leib, so as to embrace an examination of the official conduct of Judge Peters, District Judge of the Court for the District of Pennsylvania, the resolution of Randolph passed by a vote of 81 to 40.

In obedience to this resolution, Randolph, Nicholson, J. Clay, Early, R. Griswold, Huger, and Boyle, were appointed a committee.

On the 6th of March Randolph, chairman of the committee, made a report that the committee thought Samuel Chase ought to be impeached of high crimes and misdemeanors, but that no evidence existed why Judge Peters should be impeached. On the same day the House took up the report, and, after a short debate, concurred in the first part of it, which referred to Judge Chase, by a vote of 73 to 32. That part of the report which related to Judge Peters was concurred in unanimously.

On the 30th of November the committee, through their chairman, John Randolph, reported eight articles of impeachment.

The first article,—relating to the trial of John Fries, who was tried for treason,—charged that the judge conducted himself in a manner highly arbitrary, oppressive, and unjust.

The second article charged a similar spirit in the trial of James T. Callender, who was arraigned for a libel on John Adams, and specified the manner.

The third article, likewise in reference to the trial of Callender, referred to the arbitrary and oppressive rejection of the testimony of John Taylor, a witness for the defence.

The fourth article referred to the manifest injustice, par-



tiality, and intemperance that marked the course of the judge during the trial of this same man Callender, and specified the manner in five distinct charges.

1st. "In compelling the prisoner's counsel to reduce to writing and submit to the inspection of the court, for their admission or rejection, all questions which the said counsel meant to propound to the above-named John Taylor, the witness."

2d. "In refusing to postpone the trial, although an affidavit was regularly filed stating the absence of material witnesses on behalf of the accused; and although it was manifest that, with the utmost diligence, the attendance of such witnesses could not have been procured at that time."

3d. "In the use of unusual, rude, and contemptuous expressions towards the prisoner's counsel, and in falsely insinuating that they wished to excite the public fears and indignation, and to produce that insubordination to law to which the conduct of the judge did at the same time manifestly tend."

4th. "In repeated and vexatious interceptions of the said counsel, on the part of the said judge, which at length induced them to abandon their cause and their client, who was thereupon convicted and condemned to a fine and imprisonment."

5th. "In an indecent solicitude manifested by the said Samuel Chase for the conviction of the accused, unbecoming even a public prosecutor, but highly disgraceful to the character of a judge as it was subversive of justice."

The fifth article of impeachment alluded to the act of Congress passed in 1789, establishing the judicial courts of the United States, which allowed for any crime or offence that the offender might be arrested, imprisoned, or bailed, agreeably to the laws of the State where the offender might be found. It further noticed the law of Virginia where Callender was tried, which authorized, upon presentment by a grand jury of an offence not capital, that the court should order the clerk to issue a summons against the person or persons offending to appear and answer such presentment at the next court; yet the said Chase did, at the court aforesaid, award a *capias* against the body of the said Callender, indicted for an offence not capital, whereupon the said Callender was arrested and committed to close custody contrary to law.

The sixth article rested upon the charge that the law of Virginia, which was to prevail in all the practical operations of the trial, which in the present instance provided that in

cases not capital the offender should not be held to answer any presentment of a grand jury until the court next succeeding that during which such presentment shall have been made; "yet," says the article of impeachment, "the said Samuel Chase, with intent to oppress and procure the conviction of the said Callender, did, at the court aforesaid, rule and adjudge the said Callender to trial during the term at which he, the said Callender, was presented and indicted, contrary to law in that case made and provided."

The seventh article charged the said Samuel Chase with refusing to discharge the grand jury at the District Court held at New Castle, in the State of Delaware, after the jury had reported that they had found no bills of indictment, and had no presentments to make; when the judge, descending to the level of an informer, proceeded to say he had understood "that a highly seditious temper had manifested itself in the State of Delaware among a certain class of people, particularly in New Castle County, and more especially in the town of Wilmington, where lived a most seditious printer, unrestrained by any principle of virtue, and regardless of social order; that the name of this printer was—" but, checking himself, as if sensible of the indecorum which he was committing, he added, "that it might be assuming too much to mention the name of this person; but it becomes your duty, gentlemen, to inquire diligently into this matter," or words to that effect. With intention to procure the prosecution of the printer, he authoritatively enjoined on the District-Attorney the necessity of procuring a file of the papers to which he alluded, and by a strict examination of them, to find some passage which might furnish the ground-work of a prosecution against the printer of said paper; "thereby," concluded the article, "degrading his high judicial functions, and tending to impair the public confidence in, and respect for, the tribunals of justice, so essential to the general welfare."

The eighth article charged "that the said Samuel Chase, disregarding the duties and dignity of his judicial character, did, at a Circuit Court for the District of Maryland, held at Baltimore, in the month of May, one thousand eight hundred and three, present his official right and duty to address the grand jury then and there assembled, on the matters coming within the province of said jury, for the purpose of delivering to the said grand jury an intemperate and inflammatory political harangue, with intent to excite the fears and resent-

ment of the said grand jury and of the good people of Maryland against their State government and constitution, a conduct highly censurable in any, but peculiarly indecent and unbecoming in a judge of the Supreme Court of the United States; and moreover, that the said Samuel Chase, then and there, under pretence of exercising his judicial right to address the said grand jury as aforesaid, did, in a manner highly unwarrantable, endeavor to excite the odium of said grand jury and of the good people of Maryland against the Government of the United States, by delivering opinions which, even if the judicial authority were competent to that expression on a suitable occasion and in a proper manner, were at that time and as delivered by him, highly indecent, extra judicial, and tending to prostitute the high judicial character with which he was invested to the low purpose of an electioneering partisan."\*

These charges embraced the articles of impeachment which the House demanded Judge Chase should be summoned to answer. This trial deserves a minute examination, not only on account of its intrinsic importance and the high functionary to whom it related, but in an especial manner should it receive our consideration on account of the temper excited by the Federal party, which induced them to the unjustifiable extreme of attributing this trial, on the part of the Republican party, to partisan bearing and hatred to the Federal school. A brief attention to the history of this case will not only exculpate the Republican party in Congress of all undue and improper feelings, but convince the fair and candid reader of the justness as well as necessity of the trial.

The report containing the impeachment was made the order in the House for the 3d of December. On that and the ensuing day the House took the articles into consideration, agreeing, according to the following vote, that Judge Chase should be put upon his trial to answer the charges preferred against him:—On the 1st article, yeas 83, nays 34; on the 2d, yeas 83, nays 35; on the 3d, yeas 84, nays 34; on the 4th, yeas 84, nays 34; on the 5th, yeas 72, nays 45; on the 6th, yeas 73, nays 42; on the 7th, yeas 73, nays 42; on the 8th, 1st section, yeas 74, nays 39; 2d section, yeas 78, nays 32.

The House proceeded immediately to execute every step

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\* Trial of Judge Chase, vol. i. p. 5.

necessary to expedite the trial. On the 5th of December seven managers were chosen by ballot to conduct the impeachment, consisting of Messrs. J. Randolph, Rodney, Early, Boyle, Nelson, and G. W. Campbell. On the next day Mr. Clarke was appointed in the place of Mr. Nelson, who resigned. The articles of impeachment were received by the Senate on the 7th of December, whereupon John Randolph read the foregoing articles. The managers were immediately informed by the President of the Senate that proper orders would be forthwith issued on the subject of the impeachment, and notice given to the House of Representatives. The articles were delivered at the table and the managers withdrew.

The Senate, on the 10th of December, sitting as a High Court of Impeachment, adopted the resolution directing a summons to issue to Samuel Chase to answer certain articles of impeachment, returnable the 2d of January, to be served at least fifteen days before the return thereof. On the return day of this important and interesting trial Judge Chase appeared, the summons had been executed, the High Court of Impeachment was opened, and Samuel Chase, being formally called, appeared. In answer to the summons he urgently stated the reasons which impelled him to ask for time sufficient to prepare an answer; it was a trial involving charges of the most heinous nature, to which he plead not guilty; 1805.

and denying specially every charge and every act, with a few exceptions, he thought time should be allowed him. On the next day, the defendant continuing his application for further time, the President of the Senate stated he had received an affidavit from the defendant, stating the necessity of further time,—setting forth the fact of the various offences charged having occurred at different places far removed from each other, that a great many witnesses, living at long distances from each other and from the place of trial, were to be summoned, the names of many of whom he had yet to ascertain. The nature of his answer in full reply to every charge must require time for preparation.

After the failure of several motions to fix particular days, the motion of Mr. Breckenridge to fill the blank with the words, “the 4th day of February next,” was passed in the affirmative by a vote of 22 to 8; on which day the defendant was notified to appear.

Preparatory to this exciting and interesting event, the Senate chamber was fitted up in a style of elegance suited to



the occasion. Benches, covered with crimson velvet, on each side of the President were assigned the members of the Senate; on the right and in front of the chair was a place assigned the managers; on the left a place was designated for the defendant and his counsel, with a chair for such particular friends as the distinguished defendant might introduce. The remainder of the hall was occupied with chairs for the accommodation of the members of the House of Representatives; and there was a place for the reception of foreign Ministers, and also for the civil and military officers of the United States. Where the benches terminated on the right and left of the chair were assigned places for the stenographers. Spectators of all ranks found indiscriminate admission to the permanent gallery. Below this gallery, and a little raised from the floor, was a new gallery, finished with striking and peculiar elegance, designed for the exclusive reception of such of the gentler sex as might honor this trial with their presence; whilst at the termination of this place, on each side, a box was erected for the special accommodation of the ladies constituting the families of public characters. To the Marshal of the District was assigned the responsibility and arduous task of preserving order in this large and mixed assemblage.

On Monday, February 4, 1805, at a quarter before ten o'clock, the court was opened by proclamation for the trial of Samuel Chase; every member of the Senate (thirty-four) who was to act upon this case was present. The large and extensive chamber in which the trial was to be held was soon filled to overflowing.

It was immediately ordered that the Senate was ready to proceed with the trial, and notice sent to the House. In a few minutes the managers, followed by the House of Representatives in Committee of the Whole, appeared and took their seats. The defendant upon being asked, announced himself ready, and requested leave to read his answer and appear by counsel who had been called to his assistance. Thus commenced the most important trial which had then ever occurred in the United States. A brilliant array of talent presented itself to the admiration of the country on both sides; and it was a trial that would enlist the highest order of talent, skill, and learning. On the one side was the keen and eloquent Randolph, with the greater learning and more powerful intellect of Rodney, supported by Nichol-

son, Boyle, Early, Clarke, and G. W. Campbell. On the other side was the defendant himself, with Harper and Hopkinson, and that most remarkable man and distinguished advocate and lawyer, Luther Martin, whose ability, skill, and talent, have found few equals and no superior.

It would be too tedious and voluminous to make even an abstract of this case, the report making a volume of nearly one thousand pages. Day after day, week after week, this trial proceeded, involving pages and volumes of testimony, learned arguments, and keen and fiery debates. By reference to the articles of impeachment, the reader will learn the distinctive charges upon which the defendant was put upon his trial, the most important of which were boldly and vigorously denied and defended.

On Friday, the 5th of March, this tedious and harassing proceeding was concluded, the result of which will throw more light upon the subject than the most extended comments of the author. On the day mentioned, the court was opened for the last time; anxious friends gathered around the unfortunate defendant; but whilst the anxiety of devoted friends was great, there was the greater anxiety of the patriot citizen who wept for the purity of the bench and the unsullied ministration of the law. On this final day the managers, with the House of Representatives in Committee of the Whole and in full attendance, were there; there, too, sat the aged defendant and his faithful counsel; there were the high functionaries of the bench, with the purest and deepest feelings, interested for a distinguished fellow-laborer on the one hand, and the integrity of the bench on the other.

It was resolved that in taking the judgment of the Senate upon the impeachment then pending, the President of the Senate should call on each member by his name, and upon each article propose the question of "guilty" or "not guilty" of a high crime or misdemeanor as charged in each article, which was voted on separately,—each member rising in his place and answering guilty or not guilty. The judgment of the Senate taken in this manner avoided all confusion, and preserved the utmost accuracy and fairness.

The vote being taken on the first article, the result was,—guilty 16, not guilty 18; on the second article, guilty 10, not guilty 24; on the third article, guilty 18; not guilty 16; on the fourth article, guilty 18, not guilty 16; on the fifth article the defendant was unanimously acquitted; on the

sixth article, guilty 4, not guilty 30; on the seventh article, guilty 10, not guilty 24; on the eighth article, guilty 19, not guilty 15. Thus ended this trial, which had caused the Government an enormous expenditure of money, a vast amount of trouble and vexation, a month's delay of the public business, and much anxiety on the part of both friends and foes. It is seen from this that the defendant escaped impeachment from every charge; on three only,—the third, fourth, and eighth,—was he found guilty by a majority of the Senate; yet it fell below the constitutional majority required for impeachment; and whilst the distinguished defendant escaped by an arbitrary provision of the fundamental law, the majority vote of the Senate fixes the stamp of corruption upon Samuel Chase, which, though deeply to be regretted, can never be overlooked by the eye of true and impartial history.\*

In pursuing the history of the trial of Judge Chase to its close, it was necessary to enter the year 1805; which  
1804. left unnoticed several important events and topics of the preceding year. The interesting and then unsettled question of impressment of American sailors on board American vessels was forced upon the public mind as well as the attention of Congress at this time. The cruelty, outrage, and wanton disregard of our rights as a nation, which had been practiced upon our sailors by the English Government, had reached a point beyond endurance.

Marshall, the Secretary of State under Adams's administration, had urgently pressed on the British Ministry an adjustment of this subject. The question was, however, after the peace of Amiens, allowed to linger unnoticed for a while, until the prospect of a new war aroused the attention of Congress. King, our Minister at the British Court, had again brought it to the attention of the British Government. A practice so unjust, so insulting to our national dignity, so contrary to national right and good-will between nations could not be palliated or submitted to. A short time previous to the departure of our Minister from England he had succeeded, with Sir John Jarvis, then at the head of the British Admiralty, to consent to an agreement for five years that neither nation should take any seamen out of the ships of the other on the high seas. When the agreement was about being signed, the British negotiator, not content with the right of

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\* Trial of Judge Chase, in 2 vols., by Smith & Lloyd, Washington, 1805.

visitation and impressment as to all American vessels in any British harbor, claimed to except the narrow seas also; meaning the seas surrounding England. Such pretensions had been previously set up in negotiations with other nations: the Dutch had oftentimes submitted to it. The reservation was so monstrous and unjust, that the representative of the American Government,—though not exacting, yet rigorous for right and justice,—rather than consent to Sir John's reservations, preferred abandoning the agreement entirely; and in this he received the approbation of Jefferson. Attempts were made by Congress to legislate on the subject, but the good sense of the Democratic leaders saw the impossibility of settling it by legislation: it was a question properly belonging to diplomacy,—and the bills were allowed to rest unnoticed.\*

At this session of Congress a most exciting and 1804. interesting subject was long and violently agitated, which has been known as the Yazoo question. The history of the question runs back to the 7th day of February, 1795, at which time the legislature of Georgia passed an act, authorizing the sale of four tracts of land to four companies, embracing the greater part of the country west of the Alabama River. The land contained within the boundaries of the four companies forty millions of acres, for which the companies were to pay five hundred thousand dollars. The inadequacy of the price at once excited the suspicions of the people of Georgia. Upon an impartial but close examination into the secret history of this question, a scene of iniquitous swindling was disclosed, which had scarcely found a parallel in any age or country. An enormous tract of country, rich and valuable beyond calculation, belonging to a State, had been sold to companies, and that by express legislative enactment, for a sum of money (in comparison to its value) actually insignificant. The full development of the fraud that had been practiced upon the State was made apparent by the result of an investigation, which proved that every member of both branches of the legislature who voted for this law and sanctioned this sale, were, with one exception, parties to the purchase. The question of the Yazoo purchase became the sole and absorbing topic of the day; the succeeding legislature was elected solely with reference to it; repeal or no repeal

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\* Hild. Hist. U. S., second series, vol. ii. p. 536.



was the only question canvassed before the people. On the 30th of January, 1796, an act was passed, with only three dissenting voices, declaring the act of 1795 void, and expunging the same from the public records. This matter was brought before Congress at the session of 1802-3. The New England and Mississippi Land Company had purchased from the other companies their interest in this fraudulent grant. The company contended that under the agreement between Georgia and the United States, "the latter might dispose of, or appropriate a portion of the said lands not exceeding five millions of acres, or the proceeds of five millions of acres or any part thereof, for the purpose of satisfying, quieting, or compensating for any claims, other than those recognized in the article of agreement, which may be made to the said lands." At the session of 1802-3, Madison and Gallatin, members of the President's cabinet, and Levi Simeon, were appointed commissioners to investigate this subject. They made an elaborate report, and recommended that "so much of the five millions of acres as shall remain after having satisfied the claims of settlers and others not recognized by the agreement of Georgia, which shall be confirmed by the United States, be appropriated for the purpose of satisfying and quieting the claims of persons who derive their titles from an act of the State of Georgia, passed the 7th day of January, 1795." The Administration became pledged in this manner, along with some of its leading members, to the justice of the claim.

Gideon Granger, the Postmaster-General, was at the head of the New England and Mississippi Land Company, and acted as agent to prosecute the claim before Congress.

He contended, in an able and extensive argument, that the company were innocent purchasers without notice. He censured the people of Georgia for repudiating the act of the legislature, though it had been convicted of bribery, charging that State and the United States with injustice in appropriating to their own use lands which had been *legally* sold by the State and purchased by his company.

On the 25th of January a resolution was introduced into the House, that three commissioners be appointed to receive propositions of compromise and settlement from the several companies, or persons holding claims to lands within the present limits of the Mississippi Territory, in such manner as will, in their opinion, conduce to the in-

1805.

terest of the United States; provided, such settlement shall not exceed the limit prescribed by the convention with the State of Georgia. The resolution was introduced by Dana, chairman of the Committee of Claims. A bold and animated debate ensued, and the more so, as parties were nearly balanced on this question. The one consisted of those who believed that the principles of public faith required that the grant by the legislature of Georgia should be ratified, however corrupt may have been the motives of the members who voted for it, especially when on the faith of its acts, those who were parties to the fraud had been able to impose on innocent purchasers; some there were, who, though not admitting the legal validity of those claims, thought it politic to compromise them and end an otherwise interminable source of complaint.

The opponents insisted that those claims, having originated in a course of fraud and corruption as alarming by its magnitude as it was odious by its baseness, ought to receive no notice from Congress. That those purchasers who had no knowledge of the corruption practiced on the legislature of Georgia, if there were any such, could receive no better title than the original perpetrators of the fraud could convey, according to the settled principles of jurisprudence; and that for the injury sustained they should look for redress to those who had deceived them rather than to the people of Georgia, or their assignees, the people of the United States; and that it was repugnant to principle as well as policy to sanction claims which originated in fraud.

The most efficient opponent of Dana's resolution was John Randolph. He had, whilst on a visit to Georgia at the time of this excitement, made himself thoroughly acquainted with the subject. His honest and burning indignation was poured out with his own matchless skill and eloquence, in one of the finest efforts he ever made. He succeeded in defeating the resolution. Granger, the Postmaster-General, who had been the special object of Randolph's satire, openly declared that either he or Randolph must fall. There was an effort to put him down, but the expression was explained to apply as a public man. Almost every Southern member went with Randolph, the Yazoo claims being held chiefly at the North. Leib, Clay, of Philadelphia, and Sloan, of New Jersey, were also found side by side with the opponents of this measure.

The result of this vexatious question was gratifying to the

country; yet it was to be lamented that it excited a strong prejudice on the part of some administration members of Congress against Randolph. Madison, Gallatin, and Lincoln, who had acted as commissioners, did not escape Randolph's violence. Granger was compelled to send a communication to the House asking an investigation into his conduct, but the request was gotten rid of by a postponement. Whatever may have been alleged against Granger, certain it is no breath of suspicion ever found an advocate against Madison or Gallatin. The bitterness of feeling which was engendered between Randolph and a segment of the Republican party at this time had a strong tendency to fan the flame of discord which ultimately drove Randolph from the administration of Jefferson. Randolph had become obnoxious to many of the Republicans, chiefly on account of his violence and acerbity of temper, which often drove him to great extremes.

March,  
1805.

After the adjournment of the present session of Congress Granger made a tour through the Northern States, with the view of organizing a party to destroy the influence and popularity of Randolph. The most prominent leader was Barnabas Bidwell. They represented themselves as the exclusive friends of the Administration, and Randolph as an enemy. Randolph, as an orator, with a bright and blazing genius, could not be suppressed or extinguished; yet, as a leader of the Administration, he was rapidly destroying his own popularity as well as influence for good. He could not, would not act with the Federal party, and his erratic course towards the Administration served to break down the political force of his own character; whilst the administration of Jefferson was immovably planted in the high regard and affection of the American people.\*

The other subjects which engaged the attention of Congress towards its close were of little importance. There was passed an act for the government of the Territory of New Orleans. The District of Louisiana, hitherto belonging to Indiana, was at this session converted into a separate Territory; the power of legislation being vested in the Governor and Judges. The government of the Orleans Territory, which the President had reserved for Monroe, was allowed to remain

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\* Hild. Hist., second series, vol. ii. p. 542; Tucker's Life of Jefferson, vol. ii. p. 162; Garland's Life of Randolph, vol. i. p. 205.

under the control of the then incumbent, Governor Claiborne, Monroe being otherwise provided for.

The Territory of Indiana was subjected to another curtailment by the erection of Michigan into a new and separate Territory, the government of which was given to William Hull, of Massachusetts, who, though he had served with honor in the revolutionary war, lived long enough to be called into service again only to deface the brilliancy of his former glory, and leave a name despised and execrated by every good and virtuous citizen. The government of the Territory of Louisiana was bestowed on General Wilkinson, then Commander-in-chief of the American army.

The condition of the District of Columbia was the subject of much excited debate. The system of laws under which the District was governed was exceedingly confused and heterogeneous. Two different codes were in existence on opposite sides of the Potomac; the laws of Virginia on one side, and those of Maryland on the other.\*

The idea was started that it was contrary to republican principles, that the District should be governed by Congress without any legislature chosen by the people of the District; consequently it was proposed to retrocede the District, with the exception of the city of Washington, but the proposition was unsustainable and the effort failed.

Sloan, of New Jersey, introduced a bill which, at Jan. 18,  
1805. the time, excited little or no interest, that all children born of slaves within the District after the ensuing 4th of July, should become free at a certain age. The bill met with marked disapprobation. The House refused to refer it to a Committee of the Whole by a vote of 65 to 47; afterwards being rejected by a vote of 77 to 31. The thirty-one who voted in the affirmative were chiefly Republicans from New England, Pennsylvania, and New York. Five members of the Federal party voted with them,—two from New Hampshire, two from Massachusetts, and one from New York.†

In reaching the close of the Eighth Congress, which is memorable as being the end of the first March 3,  
1805. term of Thomas Jefferson, the reader will not fail to observe the great success which followed the administra-

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\* By act of Congress the laws of Virginia and Maryland were in operation in the District on those parts formerly belonging to one or the other.

† Hild. Hist., second series, vol. ii. p. 546.



tion of the Government. The preceding Administration had been signalized by extravagance, and disturbed by faction and broils. The party by which it was supported had become corrupt, and had fallen into insignificance, with no great event or glorious achievement to mark its place in history or endear it in the memory of the people. But, on the contrary, the first term of the administration of Jefferson had won the admiration and affections of the people of the United States. Our commerce had expanded; the revenue had reached seventeen millions of dollars; the expenditures were twelve and a half millions; in four years thirteen millions of public debt, including interest, had been paid; the taxes had been lessened; a host of useless officers had been discharged; the area of the United States had been doubled; war with France and Spain had been averted; Tripoli had been whipped; Tunis and Algiers had been taught to know their place and duty; the title to a large tract of Indian lands was extinguished; the poor Indians themselves enlightened and instructed; the nation was respected throughout the world; prosperity bloomed over the land; quiet and contentment pervaded nearly every bosom.\* In the language even of a strong (though fair and enlightened) Federal historian, "The country had reached a pitch of pecuniary prosperity never before known."†

The force, the character, the unsurpassed popularity of Jefferson, as then understood, as well as the decided Republican cast of the people, is fully and satisfactorily exhibited by the flattering vote which sustained his policy and bore him triumphantly a second time to the Presidency of the United States, at the election which had taken place the preceding year.

Jefferson was re-nominated for President, and George Clinton, for some time Governor of New York, was nominated for Vice-President in the place of Burr, who had been abandoned by the Republican party, and discarded from the regard of the American people. The friends of Jefferson looked upon Burr not only as a rival of the great favorite of the Republican party, but as a dangerous, designing, and unprincipled man. The Federalists equally despised him as the murderer

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\* Tucker's *Life of Jefferson*, vol. ii. p. 180; Bradford's *Federal Government*, p. 135.

† Hildreth.

of the last great light and pillar of Federalism, Alexander Hamilton, whom he had challenged and killed in a duel.

The Federalists, though in the feebleness of their declining days, yet endeavored to make an opposition. They nominated Charles Cotesworth Pinckney, of South Carolina, for President, and Rufus King, of New York, for Vice-President. When the election took place, Jefferson and Clinton received one hundred and sixty-two votes of the Electoral College, whilst the Federal candidates received but fourteen.

## CHAPTER VI.

## THE ADMINISTRATION OF THOMAS JEFFERSON (CONTINUED.)

ON the 4th of March, 1805, commenced the second Presidential term of Thomas Jefferson. Before the Congress of the nation, with an enormous assemblage of people from every quarter of the country, was delivered that Inaugural Address which stands unsurpassed by anything of its kind. Calm, philosophic, and bold, he reviews the past Administration and the prosperity of the country with a modesty becoming his unparalleled public merit and wisdom. He had been faithful to the principles avowed, when first the Government had been intrusted to his hands, and he spoke in a tone of high and commanding moral feeling which the world felt and admired. "We are firmly convinced," he says, "and we act on that conviction, that with nations as well as individuals our interest, soundly calculated, will ever be found inseparable from our moral duties." He alludes with high satisfaction to the reduction of our taxes, and believes the newly acquired territory will pay for itself before we are called upon to pay for it. He ably answers the objections to the enlargement of our territory, and in conclusion, he announces that he will proceed in the spirit of those principles which the people of the United States had approved.\*

In the interval between the inauguration and the meeting of Congress, the President retired for a while to the delightful country home he had reared in the mountains of Virginia; here he could find relaxation and repose from the exciting and laborious cares of State; here he could breathe the fresh and invigorating mountain air of his own native State, happy in his quietude, happy in the free intercourse of his friends, and that interesting group of little children who were just learning to lisp a grandfather's name. In October he re-

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\* See Address, Stat. Man., vol. ii. pp. 173-6.

turned to Washington; the feelings of the statesman were changed; the first four years of his administration had been calm and prosperous; now the aspect of political affairs assumed a different hue,—the sea once so smooth, began to rage and roughen; the sky once so clear and bright, was growing dark and stormy.

Difficulties existed in the foreign relations of the country. The commerce of neutral nations in time of war is always subjected to vexation and harassments, especially from maritime belligerents. Britain was exhibiting a disposition to restrict the commercial rights of neutral nations, with the assertion of principles of national law so abhorrent to the people of the United States as to be beyond endurance.

Spain was in an attitude of hostility, being not only unwilling to settle the boundaries of Louisiana, or allow compensation for past outrages, but continued to give renewed provocation. Tunis exhibited a disposition to give us trouble, and would have done so, but for the timely appearance of Barron, with his entire fleet, which soon brought the Bey to terms.

The United States was annoyed in its commercial relations at this time more than any other nation. When war recommenced in Europe, the carrying trade of the United States had reached an extension before unknown, and was, upon the progress of the war, continually expanding. The vessels and cargoes of our citizens were subject to constant seizure and depredation. Spain seemed ever on the alert to capture our vessels; our trade was carried on with armed ships, so great and constant was the danger. The southern coast of the United States,—the very entrances of the harbors,—were annoyed by these piratical vessels of the French, Spanish, and English.

The views entertained at this time by the British Admiralty Court added difficulty and alarm to the then exciting course of the European belligerents. The rule of war, recognized by the British orders in council since the year 1756, allowed the Americans to trade with the Colonies of belligerents in produce or goods of every description. The United States and the other neutrals,—Sweden, Denmark, and the Hanse Towns,—were rapidly becoming rich by the carrying trade. The belligerents had no longer merchant-vessels, which made the trade so exceedingly profitable to the neutrals.

The British Court of Admiralty by its opinions,—suggesting



that the rich cargoes carried from one belligerent to another, or carried to one port and reshipped in the same vessel, was a subterfuge and fraud; that the vessels, in fact, belonged to, or were engaged by, the belligerents,—laid the ground-work for the condemnation of several American vessels, with their cargoes of great value.\*

Congress had not met, though the day was not distant. The President and cabinet were in constant session at Washington. The mind of Jefferson, amidst all these difficulties, was clear, unembarrassed, and comprehensive, with an eye ever to the future advancement of his country. It occurred to him that as the Louisiana purchase had been attended with so much success and good to the country, that the best way to settle the existing difficulties with Spain, whilst at the same time it would result in immense advantage to the United States, would be the offer to purchase Florida. France, it was known, would favor the proposition; she and Austria were again at war; Spain had been in the habit of furnishing supplies to the French army, but was no longer able to keep up with the demands of France for her overgrown army. The President, taking these facts into consideration, thought it the very best time to make a proposition to purchase; he proposed to enter upon the negotiation at once and leave it to the wisdom of Congress to sustain and approve the effort if successful.

The cabinet entertained the opinion that in regard to so important a question as the acquisition of a large territory, the proper course was to obtain the sanction of Congress, before any step was taken. This course was agreed upon, and the Secretary of the Treasury requested to prepare a plan for raising the requisite funds, so certain was the cabinet that the project would succeed.

1805. On the second day of December the Ninth Congress met. In view of the exciting questions which clustered around the foreign relations of the country, the Congress, the people, and the civilized world felt the deepest anxiety to know what course the President had taken, and what course he would pursue. On the next day the anxiously wished-for Message was presented to Congress.

No Administration, before or since, was ever surrounded

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\* Hild., second series, vol. ii. p. 565; Tucker's Life of Jefferson, vol. ii. p. 185.

with greater difficulties or embarrassments. Our relations with France, Spain, and England were exceedingly complicated and critical. The President had the satisfaction to observe in both branches of the National Legislature an overwhelming Republican majority. In the Senate the Federalists were reduced to seven,—Plumer, of New Hampshire, Pickering and John Quincy Adams, of Massachusetts, Tracy and Hillhouse, of Connecticut, Bayard and White, of Delaware. The other members were all firm and reliable Republicans and staunch friends of the Administration. Among the most distinguished, as leaders of the party, may be reckoned Giles, of Virginia, and Smith, of Maryland, (Giles, it appears, was away most of this session,) Baldwin and Jackson, of Georgia, and Dr. Mitchell, of New York,—men of the highest order of talent, and soon occupied an enviable position among the leaders of the Administration.

The Federal party was as weak in the House of Representatives as in the Senate, numbering not more than twenty-five, and they mostly from New England; humble as members and ordinary in intellect, they but feebly upheld the fading glory of their party. Griswold, of Connecticut, for several sessions the leader of the party, had retired; Dana, Cotton, Davenport, and Smith, were there, but impotent. Josiah Quincy, the representative of Boston and successor of Eustace, took his seat as a new member, and proved a great acquisition to the Federal side by the talent he displayed and the virtue and honor which marked and distinguished the man; but the party was feeble and the days of its great men had passed away. Macon was again elected Speaker after an arduous struggle; the Northern Democrats, thinking it just that the chair should be filled from the North, endeavored to elect Varnum.

Macon reappointed John Randolph chairman of the Committee of Ways and Means, the probability of which had been a great cause of the violence of the Northern Republicans to the re-election of Macon; and Randolph was at once in opposition to a large number of his party who refused to acknowledge him any longer as a leader. Randolph was evidently in a dissatisfied and restless position; his influence with his party had ended; his association and intimacy with the President had passed away, and he stood a solitary monument of his own stubborn and refractory spirit.

On the 6th of December the President communicated to

1805. Congress, a confidential Message on the subject of our relations with Spain. This Message was referred to a select committee: John Randolph, by the influence of the Southern portion of the Republican party, was made chairman. The appointment was rather unfortunate; Randolph at once began to show he could no longer be relied upon as the friend of the Administration; and about this time occurred that separation between him and the Administration, between him and Jefferson personally and politically, which proved to be continuous as well as bitter. He was a loss to the Administration; his endowments as a public speaker, his oratory, his fearless denunciation, made him one of the most remarkable men of his day. He was not, however, without his faults, and the unbounded influence he once exerted melted away before the haughty, sour, and uncompromising temper which he of late always exhibited. Domineering with his associates, headstrong and intractable with the Executive, he was destined to enjoy but a brief popularity. Opposition was alone suited to his mind, he could not originate a measure; he never did identify himself as the patron of any great bill. His wit, sarcasm, boldness, and temper, were first brought into exercise when he entered Congress in 1779, and found himself in the minority, as he indulged his peculiar fitness to oppose and pull to pieces everything appertaining to the majority. When not in the minority "he felt the disadvantage of his new situation and sighed for the occasions he had once enjoyed, which better suited the character of his mind and disposition and were more propitious to his form."

It is said, displeased at Jefferson's backwardness in supporting his radical though violent course, and the leaning which the President exhibited towards Granger and the other Northern Republicans at the time of the excitement about the Yazoo purchase, first irritated and rendered him dissatisfied with the Administration,—doubtlessly he exhibited many signs of disquietude at that time.\*

A distinguished biographer of Jefferson states that Christopher Clark, one of Randolph's colleagues and warm admirers, being of the opinion that the mission to England would be acceptable to him, applied to the Executive to give him the appointment; but it received no favor either from Jefferson

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\* Hild. Hist. United States, second series, vol. ii. p. 566.

or Madison. They knew enough of Randolph to be satisfied that his temper unfitted him for the place. Clark urged his nomination, as did several other colleagues of Randolph; the Executive refused positively.

"Although," says Tucker, "Randolph had no agency in this application, and perhaps had not even been privy to it, yet the application and its rejection were soon made known to him, and to his proud and resentful spirit the offence was the same as if the refusal had been to himself. He was soon afterwards found in the ranks of the opposition,—to which he was most cordially welcomed, and a large portion of the public had no hesitation in referring his change to his resentment, although the office which had been refused to him had not been solicited with his privy, as his friends strenuously insisted."\*

As has been stated, Randolph was chairman of the select committee appointed in reference to our affairs with Spain. On the third of January the chairman presented his report; it noticed, in detail, the many injuries and aggressions Spain had imposed upon this country, which, 1806. in the opinion of the committee, afforded full cause of war.

Spain had refused to ratify the convention of 1802, nor would she settle the boundaries of Louisiana; she obstructed the trade of the American Settlements on the Tombigbee, by a pretended claim to exact a duty from American produce descending the Mobile River; and she had furthermore been guilty of an accumulation of wrong by recent violations of the territory of the United States. War is at all times to be dreaded: it would have been peculiarly oppressive to the people and Government of the United States at this period,—the commerce of the country, so much to be valued and guarded, was just expanding into manhood, which would have been crippled and crushed by war. We were anxious to pay off the war debt, which we could not for ages accomplish without the revenue our commerce was then yielding, which was comparatively large and increasing.

These, among other considerations, induced the committee (even with the opinion that just cause of war existed) to recommend forbearance and a continuance of peace as long as the honor of the nation was untouched. The committee, however, recommended that such number of troops as the Pre-

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\* Tucker's Life of Jefferson, vol. ii. p. 190.



sident should think requisite to protect our Southern frontier, should be immediately raised. The reason and necessity of raising and dispatching troops to our Southern frontier, were for immediate protection to our citizens; the Spanish soldiery had invaded our territory, and our people had been subjected to injury and outrage. An animated debate ensued upon the report of the committee. On the same day, Bidwell, of Massachusetts, offered a resolution by way of substitute for the resolution of the committee,—that an appropriation of two millions of dollars be made for the purpose of defraying any extraordinary expenses that might be incurred in the intercourse between the United States and foreign nations, to be applied under the direction of the President, who was authorized to borrow it; which was ultimately to be paid by a continuance of the two-and-a-half per cent. additional duty imposed under the name of the Mediterranean Fund, but which would soon expire on account of the peace with Tripoli.

The first resolution,—that which emanated from the committee,—was considered objectionable by the friends of the Administration. It might eventually produce war with Spain and ultimately with France. Bidwell's resolution, it was contended, would in all likelihood prevent war, by enabling the President to purchase Florida, which idea was for the first time publicly spoken of. Randolph, chairman of the select committee, objected to Bidwell's resolution, upon the ground that the Message did not ask for money. Varnum, a warm and enthusiastic Republican and devoted friend of Jefferson, responded to Randolph, and stated that he knew the President was anxious for an appropriation; he knew such to be the "secret wishes" of the President.\* Varnum, who spoke with the intimate confidence of the Executive, at once induced the House to reject the resolution of the committee. Both resolutions were warmly debated in secret session, until the 11th of January, at which time Randolph and the new friends he had found for his association, suffered the mortification of seeing the voice of the committee disregarded, its resolution voted down by seventy-two to fifty-eight,—the Republicans voting against it because they wished to sustain the resolution of Bidwell.

The debate in secret session was continued on Bidwell's resolution for two weeks. It was opposed by the Federal-

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\* Hild. Hist., second series, vol. ii. p. 570.

ists,—Randolph, whether belonging to their party or acting with them, it matters not, was the chief and foremost spokesman, and their leader in debates. He exerted himself to restrict the extraordinary expenses spoken of in the resolution for the purchase of the Spanish territory east of the Mississippi, which embraced Florida. The House rejected that portion of Bidwell's resolution which proposed a continuance of the Mediterranean duties for the purpose of meeting the appropriation. The bill was ultimately passed as offered, with the above exception. Two millions of dollars were appropriated for "any extraordinary expenses which may be incurred in the intercourse between the United States and foreign nations." The Federalists had endeavored to make it read, the "expense which may be incurred in the purchase of the Spanish territories lying on the Atlantic Ocean and Gulf of Mexico, and eastward of the Mississippi;" but the effort failed. An excited and interesting debate was protracted on the questions connected with the Spanish difficulties, up to the 6th of February: before it closed, the minority succeeded in passing a resolution to the effect that the best mode of settling the difficulties between Spain and the United States, which originated in a great measure about their respective boundaries, would be an *exchange* of territory. The resolution was indefinite, and was said to be objectionable to the President, though it was passed by a vote of 80 to 52.\*

After this discussion had ended, it was clearly seen that Randolph and the Administration were at open war: the bitterest terms he could invent were too mild to be applied to the distinguished leaders of the Administration. Varnum, Bidwell, and a few others enjoying the special confidence of the President, were often the designated marks of his venom. The influence of this erratic orator was of little damage to the Administration; its principles were too deeply planted in the hearts of the American people to be shaken even by a greater power than the wit, the sarcasm, or the oratory of Randolph. A few weak-headed members of Congress, who in derision were called "Quids," were carried along with him for a while, being induced to leave their party and forsake their principle, either from personal fear or personal love of Randolph. This little disaffection soon passed away; the Administration remained firm, united, and unshaken; whilst

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\* Tucker's Life of Jefferson, vol. ii. p. 192; Stat. Man., vol. i. p. 247.

Randolph stood "solitary," though not voiceless "in his woe," but "with none so poor to do him reverence."

It was during the excitement attendant on the discussion of the Spanish difficulties (and it is worthy of mention, as it had a tendency to excite the public mind to a higher pitch of indignation,) that an impudent and ill-bred man, named Yrujo, the Spanish Minister at Washington, who, becoming obnoxious to our Government, his recall had been requested.

1806.

The Minister had left Washington a short time previous, but returning on the 15th of January, or about that time, Madison, in a letter, reminded him that the Spanish Government, in reply to a request for his recall, had desired,—as leave to return had already been asked for by the Minister,—that his departure should rest on that ground. This arrangement met the approbation of the Executive, and the Spanish Minister was informed, though it was not required that he should leave the country at so inclement a season, his presence was "dissatisfactory to the President."

Yrujo made two replies to this letter: in the first he insisted on his right to remain as an individual and as a public Minister; he was engaged in no plot against the Government, and had a right to reside in the City of Washington, which he would do as long as it suited him. In another letter, he informed the Secretary of State "that the Envoy Extraordinary and Minister Plenipotentiary of his Catholic Majesty near the United States, receives no orders except from his sovereign;" contending at the same time that his diplomatic rights had been invaded. The conduct of this man had been objectionable to our Government; the President and cabinet had acted with exceeding mildness and forbearance; his recall had been requested by this Government, yet as the Minister had requested his recall previously, the President consented that his departure might be placed on that footing. We were in imminent peril of a war with Spain. Peace was our policy, and the President was determined to maintain it if it could be done with honor. Our relations with other countries were also greatly entangled, and Jefferson and his cabinet felt resting upon their shoulders the great responsibility of maintaining an amicable position with the world. This affair with the Spanish Minister was passed by without notice from the Executive, probably as unworthy of consideration, in reference to the other matters existing between Spain and the United States. It was in truth a matter of little moment;

the President so considered it, and nothing more would have been thought of it, had not John Quincy Adams, in a fit of imprudence, introduced a bill into the Senate to prevent foreign Ministers from abusing their privileges as such, and giving the President authority to order their departure in certain cases. The bill never passed: there was no necessity that it should; if the President cannot remove a Minister actually dangerous, he can take such steps necessary to avert the danger, and upon application to the Government he represents, he can have him recalled; indeed, the comity existing among nations will always induce a Government to recall a Minister when his conduct becomes disagreeable or unpleasant to the Court near which he resides.

The attention of the reader will be called from 1806.  
the vexations of Spain to circumstances more momentous, and difficulties far more imposing. Our relations with England had assumed a dangerous character. In addition to the difficulties about *impressment*, we had to contend against the doctrine laid down by the British Admiralty Court, in the most stringent terms, in reference to our carrying trade. British officers, cruel and insolent and arrogant, had long been in the habit of boarding American vessels and taking therefrom the hardy but devoted American patriot and sailor, and, under the pretence that he was a British subject, tearing him from the service of the stars and stripes and that proud flag it was his joy to bear unmolested to the ports of the world. More than three thousand sailors, it has been estimated, were taken from American vessels and forced into the British service. No outrage could be more enormous, and it demanded instant attention; the consideration of which was more pressing upon Congress, inasmuch as it had been often laid before the English Ministry, and received but little encouragement. This doctrine, which found its origin in English cupidity, was attended with more hardship to the United States navy than that of any other country; the same language, personal appearance, manners, and customs would, as it did, often lead to the greatest oppression and outrage. The reason adduced by the English Ministry was that their Government had the right to capture their own sailors, wherever found; but it is known that the English naval officers never confined themselves to the capture of their own citizens.

Our Minister, Monroe, had ably discussed this question at  
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the Court of St. James. Our position was, that a neutral flag on the high seas was a safeguard to those sailing under it. Upon this principle of justice we planted ourselves, and no force of argument could alter our determination; with all the ability of English statesmen and English diplomacy, we remained firm and immovable.

The other question of difficulty which presented itself was in reference to the carrying trade. France and England, with other European powers, were at war; the navy of the belligerents was useless for this trade. We were neutrals, and our enterprising commercial men embraced this golden opportunity for supplying the belligerents with all articles of trade and commerce. England objected to our furnishing to France, for example, breadstuffs brought from the French Colonies, which, by the European colonial system, we could not touch in times of peace. Did war increase the rights of neutrals and give us the right to carry from one French or Spanish port goods which in peace times would have rotted on their wharves if they had not the means of transportation? The necessities of war might induce the opening of different ports, yet it had not been done. A subterfuge was adopted, which obtained the sanction of the British Admiralty Courts. An American vessel would take from a French colonial port a cargo, intended no doubt for the Mother Country, bring it to New York, the cargo is landed, duties paid, the cargo reshipped, a bill of lading from our own port is produced, and the vessel sails for some French port. When the cargo had been honestly purchased, there could be no objection legally or morally; but it was rarely the case that an American, who had made a *bona fide* purchase, brought his goods to New York, and then reshipped to France.

Many vessels, however, tempted by the richness of the prize, boldly braved every danger and sailed directly from the port of one belligerent to another. When caught they were invariably condemned by the Admiralty Court. Many remonstrances from citizens, companies, and towns, were constantly pouring in upon the Executive asking relief. This formed another grave and serious difficulty; the sanctity of our flag had been invaded, the rights of our merchants had been trampled upon, and our injured citizens were crying for relief. The opinion of many was that we were engaged in an unlawful trade, and that we had no right to ask for indemnity.

Our Secretary of State, Madison, maintained with great force the right of our citizens to engage in this carrying trade. He took a high position, it is true, and such is generally the right one:—

“The right of taking neutral vessels engaged in this kind of trade, under all the circumstances, was a principle of modern date; it was not sanctioned by national law, for it was maintained by no nation but Great Britain. She assumed it in the pride of her maritime ascendancy, but it had met with no countenance elsewhere. The regulations on this subject were very unsettled, and were constantly being modified.\*

“The principle is contrary to the interest of commercial nations, as well as the law of nations settled by the most approved authorities, which recognized no restraints on the trade of nations not at war with nations at war, other than that it shall be impartial between the latter; that it shall not extend to certain military articles, nor the transportation of persons in military service, nor to places actually blockaded or besieged.

“The principle is both contrary to reason and to right, inasmuch as the admission of neutrals into a colonial trade shut against them in times of peace may, and often does, result from considerations which open to neutrals direct channels of trade with the Parent Country, shut to them in times of peace, the legality of which latter regulation is not known to have been contested; and inasmuch as a commerce may be, and frequently is opened in time of war, between a Colony and other countries from considerations which are not incident to war, and which would produce the same effect in a time of peace; such, for example, as a failure or diminution of the ordinary sources of necessary supplies, or new terms in the course of profitable interchanges.

“It is particularly worthy of attention that the board of commissioners jointly constituted by the British and American Governments, under the seventh article of the treaty of 1794, by reversing condemnations of the British courts founded on the British instructions of 1793, condemned the principle that a trade forbidden to neutrals in time of peace could not be open to them in time of war.”†

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\* Rob. Admiralty Reports, vol. iv. Appendix.

† American State Papers, vol. v. p. 215. Madison to Monroe.

Such were the views and arguments sent to the American Minister in London, with instructions to urge them before the English Ministry.

Whilst this subject was agitated before the English Ministry, and apparently without effect, a more efficient course was adopted by the Executive. A communication from the Minister at the English Court was received, the character of which is unknown, as it was never made public; it was sent to Congress, accompanied by various memorials from the maritime towns, remonstrating against the British doctrines as well as detailing their loss.

Jan. 17,  
1806.

A few days later the Committee of Ways and Means presented to the House a well-written and ably-argued report upon the subject of neutral rights. This report was drawn up by Madison for the President, which was communicated by him to the committee.

Jan. 29.

As soon as the question was introduced into Congress it became a source of great excitement, upon which an animated debate ensued. Such subjects are peculiarly calculated to enlist the attention and interest of an American Congress. Oppression and outrage first excited our forefathers to resistance, and paved the way to freedom. The American mind, trained in the school of liberty, right, and justice, takes fire immediately when it hears the report of injury to its fellow-citizens; with whose distress it mingles a sympathizing tear, and in whose defence it lends a willing arm and generous purse. The report of the Committee of Ways and Means indicated a highly restrictive policy upon the commerce of Great Britain. The report, it has been seen, was from the pen of James Madison, and was in unison with opinions long entertained by that distinguished statesman, of reducing the pride and haughty spirit of Great Britain to a sense of justice by severe and heavy taxes on her commerce. The President was known to concur with the Secretary of State in his opinion on this subject.

Whatever effect it may have had whilst held *in terrorem* over the English Government, no policy could have been more injurious to the best interest of this country.

As soon as the report of the Committee of Ways and Means was presented and referred to a Committee of the Whole, Gregg, of Pennsylvania, offered a resolution to suspend all further importation from Great Britain until just and satis-

factory arrangements were made on the subject of captures and impressments.

Clay, a member from Pennsylvania, with more foresight and consideration than Gregg, offered a series of resolutions, the purport and object of which were, that when American vessels were not permanently permitted to trade with the dominions of any foreign nation, the ships of such nation should be interdicted the like trade with the United States; that all merchandise which American vessels were prohibited from importing into any port of a foreign nation, should not be exported from the United States in vessels of such nation; that such merchandise as American vessels were interdicted by foreign nations from exporting from any part of their dominions, should not be imported into the United States in the vessels of such nation; and finally, to retort the policy of the British Navigation Act, that no foreign vessel should be permitted to import into the United States any merchandise which was not the product of such nation, except it was expressly permitted by treaty or in time of war.

Nicholson offered a resolution which seemed less at war with the commercial interest of the United States. It was to prohibit certain specific articles of English growth or manufacture, embracing all fabrics of leather, tin, hemp, brass, flax, silk, glass, fine cloths, silver-wares, beer, hats, nails, paper,—these and other like articles the mover very justly preferred to the preceding motion, as it would not have so injurious an effect upon the revenue, nor would its operation upon the class of consumers be so oppressive. Congress was well united upon a determination to pass some retaliatory law, though the members differed as to the most efficient plan, and one, at the same time, less injurious to our own commercial interest.

Crowningshield, of Massachusetts, likewise offered a resolution to the effect that no merchandise should be imported or exported to or from any European Colonies in America, unless the importation in American vessels was at all times admitted into said Colonies, and unless the exportation of the said Colonies was permanently permitted to American vessels sailing to the United States.

Within a short time thereafter Sloan, a member from New Jersey, offered a resolution providing, in effect, if the British Government did not, within a prescribed time, restore every



American seaman who had been impressed, and every American vessel that had been detained contrary to the law of nations, and likewise make compensation for past detention and illegal condemnation, all intercourse between the two countries should cease.

The same spirit actuated the Senate. Smith, of Maryland, chairman of a committee to whom the subject had been referred, reported a bill for the heavy imposition of duties on many and various specified articles.

The different House resolutions were all referred to a Committee of the Whole. They were warmly debated for some days, when, being brought up on the 17th of March, the House agreed to the policy of prohibiting specified articles of British growth or manufacture by a vote of 87 to 35. On the 28th of March the bill laying prohibitions, in accordance with the resolution previously offered by Nicholson, passed the House by a vote of 93 to 32.\* The same bill passed the Senate on the 15th day of April by a vote of 19 to 9.†

The Federal party generally acted against the resolutions. In the House, however, twelve of the Virginia delegation, Mr. Eppes (son-in-law of the President) among the number, voted against the bill.

The leader of the minority in the House on this important question was John Randolph, of Virginia, who, though no Federalist, was on this occasion the chief on whom they rested. Randolph's opposition to the Administration made this apparent alliance with the Federal party inevitable, though in reality no truer or bolder State-rights man was ever seated in the halls of Congress.

These restrictive and prohibitory measures may sometimes have the desired effect in bringing a nation to a sense of justice and propriety; no doubt, it stayed the hand of English outrage in reference to the United States; under its influence there was even an effort to effect a treaty. Yet but little doubt remains that they are attended with more harm than good.

The Government, with a view to ultimate defence, appropriated \$150,000 for fortifying the ports and harbors, and \$250,000 for building gun-boats.

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\* House Journal, 1805-6; Tucker's Life of Jefferson, Stat. Man., vol. i. p. 247; Hild. Hist. of U. S., second series, vol. ii. p. 574; Garland's Life of Randolph, vol. i. p. 213.

† Journal of the Senate, 1805-6.

There were other questions of importance which engrossed the attention of Congress during the balance of the session. One especially, exceeded by no other in magnitude, taken in its present or future bearing upon the welfare of this Government. The question of the construction of a national road from Cumberland, in the State of Maryland, to the State of Ohio, had for some time agitated Congress. The act constructing this road and paying for it out of the Treasury of the United States passed the House 1806. on the 24th of March, by a vote of 66 to 50. The act made an appropriation of \$30,000, which was the initiatory step of internal improvements by the General Government. It met with decided opposition, passing as it did by a majority of only sixteen. The opponents of this bill contended that it was unconstitutional; nor is there any guaranty in the Constitution for the construction of roads (except post-roads;) the consent of the States of Virginia, Maryland, and Ohio, through whose territory the road passes, was obtained. If Congress has no power to make roads, the consent of a State can grant no right. The great objection to the exercise of this power is, that it is not authorized by the Constitution. The great mischief that may occur from it is its being the cause of local jealousy; the means of wasting the resources of the nation in costly, and ultimately useless and senseless undertakings; the source of the great extension of the influence of the General Government, which is liable to every principle of corruption, if the extension itself be not the acme of corruption, with the liability and facility of bribery to the States, as well as their delegates in Congress; and finally, the boundless field of operation on which the money of our National Treasury may, and will be wasted, limited only by the cupidity of the States and the extent of the means of our treasury. The bill received the approbation of Jefferson; and it is ever to be lamented that he did not add the sanction of his Administration and the lustre of his name to the opposition of this principle, then, for the first time, rearing its frightful head in the halls of Congress. If this,—the first bantling of the most dangerous exercise of power,—had been exterminated in its infancy, for years, perhaps for ages, we might have escaped the venomous breath of this serpent in our modern Eden.

This question has continued from that day down to the

present moment to be the subject of party discussion and angry debate; and I regret to say, the reader will find the tendency to the development of this system increasing, and its exercise sometimes alarming.

During the latter part of this session, a question of much moment and interest was brought to the attention of Congress, producing no little excitement in regard to the faith and honor of the Government, which many supposed to be involved; the question was the connection with Miranda's expedition against Spanish America.

The bold and successful steps which had been taken by the North American Colonies,—the result of the war of the Revolution which freed the United States from English tyranny,—doubtless had a decided effect upon the South American Provinces in exciting and moving the minds of the people towards a similar effort. In such times there is never wanting anxious and often suitable characters, who, throwing themselves upon the popular current, secure the great object and desire of the people, and frequently a well-earned title to fame for themselves. Though success did not follow the exertions of Miranda, yet as our Government was unjustly implicated with the plans he advocated, a short notice of this remarkable man will be pardoned by the reader.

Francis Miranda was born in Spanish America, and was for many years an officer in the Spanish army. He was, during the time he held office in the army, detected in a plot against the Spanish Government. It being necessary that he should fly, he made his escape to Europe; he visited the English and Russian Courts, presenting to them plans, which they received favorably, for revolutionizing the Government of the Spanish Colonies.

This restless Spaniard went over to Paris: there he connected himself with the Girondists. On the breaking out of the war, he was made a General of Division; owing to his conduct at the siege of Maestricht and the battle of Nerwinde, he fell into disgrace, and was ultimately imprisoned by the successful Jacobins. He was set at liberty in 1794, with orders to leave France; twice after this he returned to France. In 1804 he was in Paris, when accusations were brought against him as being unfriendly to the Government of Bonaparte, when he was sent off for the last time.

It was long a cherished object with Pitt to aid the South

Americans in their efforts of emancipation from Spanish thralldom; his keen powers of observation opened to his mind the lucrative commerce Great Britain would be enabled to carry on with the Provinces, could they be disencumbered from Old Spain, and their commerce unshackled by European politics. The British Ministry had encouraged Miranda in his designs against the Government of Venezuela; they granted him very efficient aid in the unfortunate expedition he fitted out in 1801 against that country.

It was in the early part of the year 1806 that Miranda visited this country, with letters of introduction to Jefferson. He made but little concealment of the purpose of his visit, which was to raise and equip an army to revolutionize the Spanish Province of Caraccas. His preparations were made for this expedition chiefly at New York, though Miranda was often in Washington and upon habits of intimacy with Jefferson and Madison. It is unknown, and immaterial, whether he communicated freely with the President and Secretary of State or not; doubtless they were apprised of his plans and gave him their sympathy; more they could not do without a violation of national faith towards Spain,—besides, the impolicy of an act evidently hostile, whilst we were endeavoring to treat with Spain and produce reconciliation between that Government and the United States. Much excitement, however, prevailed among the people of the United States towards the Government, which it was thought was assisting Miranda. This opinion was strengthened by the fact that the act prohibiting the exportation of arms was repealed at this time, and many thought for Miranda's benefit. "It is certain," says Hildreth, "at least, that a Mr. Ogden, of New York, whose ship (the *Leander*) was chartered by Miranda, and W. S. Smith, John Adams's son-in-law, who held at that time the lucrative post of Surveyor of that port, and who was engaged in furthering Miranda's preparations, both believed that he was secretly countenanced by the Government."

The *Leander* left New York with Miranda, a supply of arms, and several hundred men, who had enlisted for the expedition. The matter was soon much talked about; the Government feeling uneasy, lest they might be compromised with Spain, ordered a prosecution against Ogden and Smith. The defendants memorialized Congress, acknowledging that they had been engaged in the enterprise, and that they had



strong reasons to believe, from the representations of Miranda, that the Government was secretly giving him encouragement and support. A resolution passed the House by a large majority,—a few of the Federalists voting to the contrary,—asserting their belief that there existed no reason or evidence to sustain these unjust imputations on the Government.

It is a memorable fact, notwithstanding the resolution of the House, that Ogden and Smith were acquitted by a jury, on the ground that the Government had countenanced the enterprise. The cabinet Ministers at Washington were summoned as witnesses. The President interposed his authority to prevent, and did prevent them from attending, upon the ground that they were needed in the cabinet, and could not leave Washington. These facts were calculated to make an impression on the people, as it did, that the Executive had connived at this undertaking. It is clear, however, beyond dispute, that Miranda obtained no money from this Government, but that the funds were furnished by the British Ministry.\*

1806. That it was an object of cupidity with the British Ministry, is evident from the fitting out of an expedition, after the failure of Miranda, which, under Sir Home Popham, entered the La Plata on the 25th of June. The object of this expedition was not to assist the Colonists to revolt, but to subjugate the country; the commanders, in their instructions from Wyndham, were directed to discourage any other hope than that of their being annexed to the English Crown.† The justice and policy of this question, as far as the United States Government was interested, were obviously an entire avoidance of everything connected with it, especially as hostile feelings were rife between the two countries, without the further addition of a most unjustifiable outrage, had it ever taken place. The philanthropist must ever wish the disinthralment of a nation from the hands of tyranny; and doubtless the President gave Miranda his sympathy; beyond that no evidence exists to attach even the slightest blame to the Executive.

The wishes and feelings of the cotemporaries of Jefferson were decidedly in favor of Miranda's earlier schemes, and were in correspondence with him,—especially Hamilton and

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\* History of Spanish America, by Niles, p. 90.

† Ibid., and the Trial of Popham, and the documents annexed to the Trial of Whitlock.

Knox; the correspondence shows the feeling of those men at the time of an earlier visit Miranda made to this country, which was about the year 1797.\*

The difficulties existing between England and the United States continued a source of much excitement and interest. The Executive was not free from fearful anxiety in reference to the influence of the disaffected wing of the Republican party. The disaffection of Randolph, which manifested itself in a strong partiality for England, created serious apprehension on the mind of the President in reference to an amicable adjustment of our foreign affairs. "A majority of the Senate," says Jefferson, "means well. But Tracy and Bayard are too dexterous for them and have very much influenced their proceedings. \* \* \* Seven Federalists, voting always in phalanx, and joined by some discontented Republicans, some oblique ones, some capricious, have often made a majority, so as to produce very serious embarrassment to the public operations; and very much do I dread submitting to them at the next session any treaty which can

1806.

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\* As a matter of history perhaps but little known, it may not be improper to notice the letters of Miranda at that time, which indicate the opinions of those addressed as well as the writer. April 6th, 1798, Miranda wrote to Alexander Hamilton,—“This, my dear and respected friend, will be handed to you by my countryman, Don ———, who is charged with dispatches of the highest importance to the President of the United States. He will tell you *confidentially* all that you wish to know on this subject. The only danger which I foresee, is the introduction of French principles, which would poison our liberty in its cradle, and would finish by destroying yours.” Whilst this exploit was being agitated, it is remarkably strange that in July, 1798, Generals Hamilton, Pinckney, and Knox, were appointed Major-Generals in the standing army raised that summer, *nominally* for the purpose of repelling a French invasion at a moment when France had not a ship-of-war on the ocean, and whilst British squadrons were hovering on her whole coast. October 19th, 1798, Miranda again wrote to Hamilton,—“Your wishes are in some sort already accomplished. Seeing it has been agreed here on one side not to employ in the operations on land English troops; seeing that the auxiliary land forces are to be exclusively American, while the naval force shall be purely English,—everything is smooth, and we wait only the fiat of your illustrious President to depart like lightning.” To General Knox he wrote on the same day, in which he expresses his delight at Knox’s nomination for General in the Continental army,—“It would appear,” he says, “that your wishes are at length *accomplished*, and that every possible circumstance is united at this moment in our favor.” These parties have all passed from the stage of life, and the question is no longer of moment; yet it is surprising that the administration of John Adams should be connected with such an enterprise. Miranda addressed Mr. Adams, but it does not appear that he ever made an answer. (*Vide* Memoirs of Burr, vol. ii. p. 379.)

be made with either England or Spain, when I consider that five joining the Federalists can defeat a friendly settlement of our affairs.”\*

The Senate consisted at this time of thirty-four members; two-thirds were necessary to the ratification of a treaty, which required twenty-three. There were in the Senate seven Federalists, and the union of five disaffected Republicans could defeat any treaty the Executive might make. The grounds of difficulty the President had to encounter with the Republican party were in reference to the course to be pursued towards England and Spain. The feelings of the President inclined warmly to France. Many who had espoused her cause as that of civil liberty had lost their ardor after Napoleon had exercised the prerogative of Emperor, under the title of first Consul. But when he threw aside the form and name of a Republican, and when all France bowed in humble acquiescence, the hopes, the admiration, and the feelings of many of the American people were turned to hatred and disgust. The outrages England had committed, and was committing, had excited the Executive as well as the American people. The angry contentions and distractive war between England and France could not fail to enlist partisans in America, though we were a neutral people. The many excesses of the French alienating the affections of the Americans, produced an alteration of feeling which, as it was increased towards France, was equally inclined towards England.

Spain, too, had to be conciliated; we had been on the verge of war with her. The President saw the policy of maintaining friendly relations with France, whose language was,—“A last friendly settlement with Spain is proposed to be made at Paris under the auspices of France.”† To effect which treaty the President appointed Messrs. Boudoin and Armstrong (both then at Paris) joint Commissioners, the former being then Minister to Spain. Armstrong’s nomination was not confirmed by the Senate. The commission would have resulted in no good if it had been, the two Commissioners being of opposite sentiments, and Armstrong particularly obnoxious to the French, an open rupture would have taken place between the two Commissioners.

The most pressing engagement upon the Government at

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\* Letter to W. C. Nicholas, April 13, 1806; Jefferson’s Works, vol. iv. p. 47.

† Letter to W. C. Nicholas, March 24, 1806; Jefferson’s Works, vol. iv. p. 46.

this time was the negotiation with England. The death of Pitt in January of this year, and Fox, the leader of the Whig party, being then in the Ministry, induced Jefferson to entertain more brilliant hopes of an amicable adjustment of our difficulties. Fox was always inclined to amicable relations with the world, and often devoted the great powers of his mind to a general peace in Europe. Jefferson knew him personally and spoke in the highest terms of his honesty; and said,—“While he shall be in the Administration, my reliance on that Government will be solid.” To carry out the wishes of the Government and secure a favorable negotiation with England, the President associated with Monroe, then Minister to England, William Pinckney, of Maryland. This appointment was highly judicious; no one enjoyed a higher reputation not only as a diplomatist, but as a lawyer, a statesman, and orator, than William Pinckney. Amidst this detail of history it is pleasant and instructive to turn to a general view of the political parties of this day, and the embarrassments they sought to throw around the Executive. By Pinckney the President had an opportunity of communicating freely and fully with Monroe, to whom he addressed a long communication.

He alludes to the desertion of Mercer, a member of Congress from Virginia, who soon became identified with the Federalists. Randolph, he said, was in the same track, whose disaffection produced momentary astonishment and even dismay, but for a moment only. He indicates to Monroe that Randolph is advocating his pretensions to the Presidency, but warns him against his friendship.

The change in the Ministry became highly favorable to our Government. He clearly indicates the opinion he entertains in reference to the policy of the two countries, none having so many points of common interest as England and the United States. The only rivalry that can arise being on the ocean: “England may by petty larceny thwartings check us on that element a little, but nothing she can do will retard us there one year’s growth. We shall be supported there by other nations, and throw into their scale to make a part of the great counterpoise to her navy. If, on the other hand, she is just to us, conciliatory, and encourages the sentiment of family feelings and conduct, it cannot fail to befriend the security of both. We have the seamen and materials for fifty ships of the line, and half that number of frigates, and



were France to give us the money and England the dispositions to equip them, they would give to England serious proofs of the stock from which they are sprung. \* \* \* Were, on the other hand, England to give the money and France the dispositions to place us on the sea in all our force, the whole world out of the continent of Europe might be one joint monopoly. We wish for neither of these scenes.”\*

This letter, whilst it is not in conflict with Jefferson’s known partiality for France, clearly indicates the advantages resulting from a treaty of amity with England, as preferable to the United States, to a friendly alliance with any other people whatsoever.

The American Commissioners were instructed to make no treaty which did not secure American vessels on the high seas against the visitation of English vessels. The Commissioners were instructed by the Secretary of State to contend that the right of impressment existing by mere municipal law could bear no authority beyond the jurisdiction of Great Britain.

The British Commissioners contended that the King had the right to require against his maritime enemies the services of all his subjects, especially if they were seafaring people, as well as the right to seize such by force everywhere, except within the territorial limits of another power; and that the high seas were extra-territorial; that merchant-vessels navigating thereon did not carry any foreign jurisdiction to protect British subjects from the authority of the King. In this they were sustained by the Board of Admiralty, and they stated that they could not give it up. The British Commissioners were yet willing to negotiate satisfactorily with the American Commissioners, with the exception of the relinquishment of the right of impressment, and Monroe and Pinckney were requested to point out anything short of such relinquishment, but this they could not do.

The American Commissioners insisted upon an absolute relinquishment. On the other hand, it was proposed to them that laws should be enacted by both nations, making it penal for British commanders to impress American citizens, and also penal for any officer of the American Government to grant British subjects certificates of citizenship. This the American Commissioners were compelled to refuse. It would

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\* Jefferson’s Letter to Monroe, whilst the latter was Minister to England; Jefferson’s Works, vol. iv. p. 51.

overthrow the American doctrine of the right of naturalization, which has enticed so many people from the oppression of tyranny of the Old World to the freedom of America, where they not only become good citizens, but contribute largely to the agricultural and commercial development of the States.

Although the British negotiators would not give up the right of impressment, it was manifest they were anxious to conclude a treaty. They even consented that special instructions should be given and enforced for the observance of the greatest caution against subjecting any American-born citizen to molestation or injury, and in case of injury the redress should be efficient and prompt. This appeared like approaching the American claims, yet it did not decide who were American citizens.

The above assurances were committed to writing, with the suggestion that while both parties reserved their rights, this stipulation might answer temporarily all the purposes of a treaty. It appears that whilst the British Commissioners would not allow the surrender of the right of impressment, the American Commissioners were given to understand that the intention of the British Government was not to allow impressments from American vessels, except under extraordinary circumstances, as if the British Government was willing gradually and silently to abandon the practice.

It seemed as if every concession short of the actual abandonment of the right of impressment had been obtained, upon which question the United States, though not obtaining its just rights, had been placed upon grounds more favorable than had been ever before enjoyed.

In consideration of the vast commercial losses which daily visited the American citizen, the fear, though unjust, that we were unable to resist the English naval force, and in imitation of the example of Jay and the commission to France in 1799, our Commissioners determined to proceed with the negotiation, having first informed the British Commissioners that they did so on their own responsibility, and with the reservation of the Government at home to ratify or not. The great difficulty of the question of impressment being removed, the terms of the treaty for ten years were soon agreed to. It was based principally upon Jay's treaty, with some more liberal concessions in favor of the commerce of the United States. The treaty conceded the right to transport in American vessels to any

belligerent Colony, not blockaded by a British force, any European goods, except contraband of war; provided the same were American property, had previously been loaded in the United States, and paid a duty of at least one per cent. above the amount drawn back on re-exportation. The treaty, as signed by the American and British Commissioners, was immediately transmitted to Washington. The hopes of the mercantile community were raised to the highest pitch by the announcement; yet they were doomed to sudden disappointment; Jefferson determined at once to reject it. It was equally objectionable to the sound national views of Madison, then Secretary of State. The rejection of this treaty caused the bitterest excitement on the part of the Federalists, who looked upon Jefferson with a habitual hatred as strong and intense as the Round-heads had ever entertained towards Charles I. Jefferson was reviled most unjustly. The Federalists seemed to think that hatred to England formed the chief bond of union with the Republican party, and that their leaders were influenced by a partiality for France, which carried them beyond the bounds of patriotism or prudence. The written opinions of Jefferson and Madison are too well known to suffer detriment from an idea so unfounded.

In the letter above quoted to Monroe, his opinions are clearly set forth, indicating his desire for a permanent peace with England. This is his language:—"The late change in the Ministry I consider as insuring us a just settlement of our difficulties, and we ask no more. In Mr. Fox, personally, I have more confidence than in any man in England, and it is founded in what, through unquestionable channels, I have had opportunities of knowing of his honesty and good sense. While he shall be in the Administration my reliance on that Government will be solid." This is the language held towards the resident Minister in London, communicated in the strictest privacy, in which the author even withheld his name. Is there not enough in it to show Jefferson's anxiety for a peace?\*

But in addition to the above the reader will appreciate the unanswerable reasons which existed against the ratification of the treaty, which of themselves would place the Executive beyond the reach of censure and the unjust clamor raised by the Federalists, in conjunction with a small fragment of disaffected Republicans.

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\* Jefferson's Works, vol. iv. p. 51.

Insuperable objections existed in a commercial view to the treaty. In reference to the East India trade, as objectionable as had been Jay's treaty, this was even less favorable, our vessels being limited to a direct voyage to British India and back. No favorable terms could be made in reference to the British West Indies, American vessels being then as heretofore entirely excluded. The questions of blockades and contraband goods were virtually untouched, no alteration being made in this respect from Jay's treaty, except an immunity from visitation and seizure within five miles of the American shore. The leading object of the commission to England was in reference to impressments from American vessels by British cruisers; this was entirely overlooked, as far as the treaty itself was involved. This the President could not, ought not to have sanctioned; whilst it was apparent that Congress had looked upon the securing of this right to America as the primary cause which suggested the necessity of an extraordinary mission.

On the 18th of March Madison acknowledged the 1807.  
reception of the treaty. On the 20th of May he communicates to the Commissioners the reasons of the Executive in refusing to ratify it. The Secretary of State authorized our Commissioners to renew the negotiation. In the mean time Fox's death, which had taken place the 13th of September, 1806, occasioned a vacancy in the Ministry, which had been filled by the appointment of George Canning.

The instructions to the Commissioners in reference to a renewal of the negotiation were full and explicit. England must surrender the question of impressments.

The eleventh article of the treaty, which related to the colonial trade, could not be admitted unless freed from the conditions which restrict to the market of Europe the re-exportation of colonial produce, and to European articles the supplies to the colonial market.

The limit of a direct trade with the British Indies to and from America was an insuperable objection. There must be an express provision for indemnifying sufferers from unlawful captures.

The eighteenth and nineteenth articles must be so altered as to leave the United States free, as a neutral nation, to keep and place other belligerent nations on an equality with Great Britain. These, with many other objections and instructions, were communicated to the American Commissioners.



In obedience to instructions the Commissioners addressed a note to Mr. Canning on the 24th of July, proposing a renewal of the negotiation, and transmitting the proposed alterations. The attack of the Seaford on the Chesapeake suspended all diplomatic correspondence until the 22d of October, when the British Minister replied, justifying the reservation made of the right to retaliate the French decrees, which had been strongly objected to by the Executive, and also insisting on the right of impressment. Canning concludes by informing the American Commissioners that it is impossible to renew negotiations upon the basis of the treaty which had been lately concluded.\*

The President had at a previous day asked for an appropriation for building and equipping gun-boats. Congress refused this appropriation, but called on the President for information in respect to their efficiency and the number wanted for defence. The President immediately communicated to Congress on the subject, stating that he had the opinions of various military gentlemen in their favor, and that they were in use by every maritime nation. In reference to the number, the President stated that two hundred would be sufficient, the cost of which would be from five to six hundred thousand dollars. An appropriation of one hundred and fifty thousand dollars was made for building thirty gun-boats; the scheme proved a complete failure, subjecting its author to considerable ridicule and the Government to a heavy expense.†

The Message of the President had called the attention of Congress to a subject which at an early day of the Republic had engaged the most anxious and attentive consideration of the statesmen of the United States,—the abolition of the slave-trade. In tracing its history I will take a short retrospective view of its rise and development, its growth and maturity, until it has reached a degree of dignity, importance, and usefulness that presents it in favorable comparison with the first and best institutions of the world.

About the year 1562, England became first interested in the slave-trade, under the patronage of Sir John Hawkins, who had fraudulently transported a cargo of Africans to His-

\* Madison's Letter to Monroe and Pinckney, *Am. State Papers*, vol. vi. p. 265; Canning's Letter, *ib.*, p. 417; Tucker's *Life of Jefferson*, vol. ii. p. 228.

† *Stat. Man.*, vol. i. p. 198.

paniola. The returns of sugar, pearls, and other rich and valuable cargoes so interested Queen Elizabeth, that upon the fitting out of a new expedition, she not only extended to it the favor of the Crown, but became a participant in the profits. This trade, nurtured and sustained by the Government of Great Britain, soon became engrafted upon the Colonies. In August, 1620, a Dutch man-of-war ascended James River and discharged twenty negroes for sale; and in thirty years from that time, so great had become the slave population of Virginia that the proportion stood as one white to fifty blacks. This was an important event; a new problem was about to be worked out in reference to the social organization of man, the result of which, after the lapse of two centuries, is not only undecided, but involved in doubt, and the source of constant political warfare and excitement with the people of the United States. It was a new problem in the history of the world. The Ethiopian and the Caucasian,—the one from the torrid zone, the other from the regions of the north,—were to unite under the milder climate of the temperate; the one to be devoted to the soil, the other to be the master and legal owner. This is the institution of negro slavery in the United States; and whilst it is not within the province of this work to discuss the moral bearing of the propriety or the abstract right of reducing the negro to slavery, no doubt can exist in reference to the utility of this institution. The race itself has received the most incalculable improvement, moral, social, and physical. The vast development of the agricultural resources of the United States owes to this institution its immeasurable productions which, in their turn, have created and sustained a commerce which makes the United States one of the greatest of modern powers; and which has for years fed, as it now feeds and clothes and enriches more than half the civilized world. Look to the amount of breadstuffs that are made in the United States and consumed abroad, and the innumerable articles which are brought back in return; look to the raw material which is worked up into the woollen and cotton fabrics which clothe, to a large extent, the Old World, and the reader will form but an inadequate idea of its vast influence in enriching, refining, and developing the great resources of the world; enlivening and expanding its physical as well as moral energies, to be attributed, in an eminent degree, to the institution of negro slavery.

It must be evident to every reflective mind that this insti-

tution,—if unmolested by a mistaken and false zeal, under the guise of philanthropy and kindness for the happiest and best conditioned race on earth,—is the best safeguard for the permanency of a Republic like that of the United States.

A government that recognizes an entire political equality among its citizens, of every class and condition, will always be more stable where there is a class of people with every political and social right, as far as the government extends, entirely withheld. If that class which now composes the negro slave did not exist, it would be supplied, as far as the wants of man demanded, by a portion of the citizens of the country; this class, as ignorant as the slave, yet doomed to supply his place and bound to the soil, would be a most dangerous feature in our social organization. The laws under which they would live make them equal citizens with the wealthy, the enlightened, and the patriotic, none of whose interest or feeling they possess.

Envy, jealousy, hatred to their employers, soon inflame the worst passions of men. They feel not that domestic attachment and dependence which the negro feels towards his master, which is dearly mutual and mutually cherished; but under that true system of government which this Republic developed, the political equality of the citizen—the poor citizen—who feels himself, if not another race, an outcast and alien, as he would be, will form at once naturally and inevitably a band of revolutionists. Their ignorance makes them the dupes of every dangerous and malicious doctrine; they are Red Republicans in France, Chartists and Fourierites in England, Socialists everywhere, Mobocrats and anti-Renters in the United States, ready to break down every guaranty to individual rights, and subvert a government which holds out equality to the citizen, whilst the unchangeable law of nature demands a class to be doomed to the plough, the loom, and the anvil.

The United States Government was the first to take the bold and decided step which commenced the abolition of this trade, which had done so much for the world, which had improved and cultivated the African, and was the precursor to Christianizing their native country.

By the Constitution the trade could exist until the year 1808, but a tax could be laid on the importation of each slave not exceeding ten dollars.

It appears somewhat inexplicable, that whilst nearly every-

body took a lively interest in slavery as it existed among us, that the prospect of the abolition of the trade should have been received with such approbation. The States in their individual capacity had made efforts to abolish the trade, and in some States emancipation was assuming a popularity not to be resisted. In 1790, slavery existed in every State in this Union except Massachusetts.

The early constitution of that State declared all men to be born free and equal. In 1783, it was judicially decided to have the effect of abolishing slavery.\* In 1780, Pennsylvania passed an act tending to a gradual emancipation, which ultimately succeeded. Rhode Island, Connecticut, and New Hampshire imitated the example of Pennsylvania.

New York, Virginia, New Jersey, Delaware, and Maryland had passed laws prohibiting the further importation of slaves.

In Virginia, Jefferson and Wythe, acting as commissioners to revise the laws of Virginia, had drafted a bill for gradual emancipation. It came before the House in 1785, and was defeated. In New York even, an effort was made in the same year for gradual emancipation; the effort failed. It is true, nevertheless, that, from North Carolina northward, there were many warm and influential advocates for the emancipation of slavery. At this period the North was not entirely united in reference to emancipation; nor was the

1790.

South fully determined how to proceed; the slave had not fallen a prey to fanaticism; the question had not reached that degree of importance which it was destined to receive; the institution had existed in every State and was partially scattered over the Union, Massachusetts alone excepted. Slavery, like everything in creation, has certain great natural laws to obey, a natural fitness to which it is to be subjected. It is a striking fact that the peculiar adaptation of slavery had not forcibly presented itself to the minds of the people. Had Jefferson remained at home, instead of going abroad in 1785, it is highly probable that Virginia would have emancipated; now (1858) nothing could induce it. In the same year, New York refused to emancipate; now, no inducement could restore slavery. It has been thus adjusted by its very nature. The negro slave belongs to, and requires a warm climate. The South suits him; agriculture better than any other pursuit; the

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\* Hild. Hist., second series, vol. i. p. 175.



South held out inducements in its sunny clime and broad and smiling fields; the North being from necessity less agricultural, slavery obeyed but an inevitable law in gradually receding; the North was to become the seat of manufactories and the emporium of commerce; these things were rapidly filling up the country with a dense population, which latter fact leads to the following conclusions in reference to slavery and population, the truth of which I will attest by history, that slavery recedes as population increases, and that it abates at about a certain density of population to the square mile. At no very distant day in the nation's history, the density of population in the Southern States will occupy and bring under cultivation all the land of the country; those now scarcely capable of production, will be enriched, until only the necessary forest will be left untouched by the hand of enterprise and labor. When this point is reached, the price of labor, compared with the cost of living, will begin to fall. The tendency of man to multiply, his dependence upon the soil for subsistence, and the limited extent of the land, whilst population is limited only by the supply yielded from the soil, renders this result inevitable. Labor, as it increases in a country, is cheapened; it is given in exchange for less food or for inferior kind. It is a long time, perhaps, to look into the workings of the future; but in the progressive increase of population and the progressive declension of the price of labor, until the slave finally attains that condition in which it becomes a tax to rear and support him, it is a dim eye that cannot read the euthanasy of slavery.

By reference to the sixth census, it is ascertained that the population of the slave States and Territories had an average of not quite twelve to the square mile, more than one-third of which are slaves. It cannot be accurately defined at what density of population slave labor will be unprofitable; for whilst I shall judge it comparatively with other countries, the productiveness of the soil, the climate, as well as the standard of comfort of the slave, are controlling elements in approximating the truth.

In the European countries in which slavery was abolished, no motives are assigned, no religious scruples are proclaimed to the world; and where slavery is profitable they never exist. The conclusion must be, that it was abolished because no longer profitable.

A distinguished politico-economist of the present day, in

speaking of the abolition of villenage in England in 1690, at which time it had ceased to exist, estimates the population at ninety-two to the square mile. In Russia, where slavery exists, its population is twenty-five to the square mile; in those countries which have been free for years from slavery, the population is about one hundred and ten to the square mile; it is assumed that in England, a highly and perhaps the best cultivated country on the globe, villenage abated at about sixty-six to the square mile.

In the United States, the abolition of slavery has taken place at a less density. In New Jersey it was only forty to the square mile, at which time it was thought the labor of the slaves did not much exceed the cost of subsistence. The author to whom allusion has been made, supposes from the abolition of slavery in the States where it has occurred, to be apt to take place at about fifty to the square mile, whilst it would not average that in the New England States.\*

As early as 1790, the power of Congress over slavery had been warmly debated in the House. In February of that year there came up from the annual meeting of the Pennsylvania Quakers a petition, asking Congress if there was not some power the exercise of which "must produce the abolition of the slave-trade."

It was moved by Hartley to refer this petition to a special committee; this motion was supported by Madison, Parker, Page, and White, of Virginia; Lawrence, Sedgwick, Boudinot, Sherman, and Gerry, likewise gave their warm support to the resolution. On the 12th of February, 1790, a petition, signed by Benjamin Franklin as president, came up from Pennsylvania, from what was called the Pennsylvania Society, praying for the *abolition* of slavery. The signing of this petition was the last public act of a wise, good, and great man, who thought not, and could not have foreseen the folly of such a step. Franklin was a philosopher, whose fame is as imperishable as the roll of the thunder or the lightning upon the clouds; not a statesman, yet a patriot; and if departed spirits can be conscious of the extent to which this early effort has gone, it would receive no stronger anathema than from the breast of this departed sage.

The petition of the Quakers was harmless, and a tax could be laid upon the slave imported, not exceeding ten dollars,

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\* Progress of the United States, by George Tucker.

though the importation could not be prohibited prior to the year one thousand eight hundred and eight. The petition which was signed by Franklin bore upon its face an abuse of slavery, talked about the equality of man and liberty, "the birth-right of all men."

The Quaker petition was warmly debated; Tucker and Burke contended that it was unconstitutional to meddle with slavery before 1808; Scott thought it constitutional, and he was violent against slavery. "I look upon it," he said, "to be one of the most abominable things on earth, and if there were neither God nor devil, I should oppose it on principles of humanity and the law of nature. For my part, I cannot conceive how any person can be said to acquire a property in another."

Madison, Page, Gerry, and Boudinot advocated the commitment of the petition. Page and Madison, representing a large slave interest, were in favor of having a report from a committee, which might have the sanction of the House and the approval of the people. Page was a large slaveholder, yet he had sufficient confidence in Congress to sustain the Constitution, "and their disinclination to exercise any unconstitutional power."

Though Congress could not abolish the slave-trade, Madison thought they might countenance the abolition of the traffic. Gerry went to great extremes, contending even that Congress might purchase and liberate the entire slave population, and that with the means of the United States Treasury.

When the question was put to the vote of the House upon Hartley's motion, it was decided by the yeas and nays in favor of a reference to a committee, by forty-three to eleven. Of those who voted in the negative, six were from Georgia and South Carolina, being all the delegation present from those States; two were from Virginia, two from Maryland, and one from New York; North Carolina was still unrepresented. It was referred to a special committee, consisting of one from New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, and Virginia.\* Much time was taken up by this committee, and after a month's deliberation and delay, they presented a report to the following effect:—

1st. That the General Government was expressly restrained,

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\* Journal of Congress, 1790.

until the year 1808, from prohibiting the importation of any persons whom any of the existing States might until that time think proper to admit.

2d. That by a fair construction of the Constitution, Congress was equally restrained from interfering to emancipate slaves within the States, such slaves having been born there or having been imported within the period mentioned.

3d. That Congress had no power to interfere in the internal regulations of particular States relative to the instruction of slaves in the principles of morality and religion, to their comfortable clothing, accommodation, and subsistence, to the regulation of marriages or the violation of marital rights, to the separation of children and parents, to a comfortable provision in cases of age or infirmity, or to the seizure, transportation, and sale of free negroes; but entertained the fullest confidence in the wisdom and humanity of the State legislatures, that from time to time they would revise their laws and promote these and all other measures tending to the happiness of the slaves.

4th. That Congress had authority to levy a tax of ten dollars, should they see fit to exact it, upon every person imported under the special permission of any of the States.

5th. That Congress had authority to interdict or to regulate the African slave-trade, so far as it might be carried on by citizens of the United States for the supply of foreign countries; and also, to provide for the humane treatment of slaves while on their passage to any ports of the United States into which they might be admitted.

6th. That Congress had the right to prohibit foreigners from fitting out vessels in the United States to be employed in the supply of foreign countries with slaves from Africa.

7th. That Congress would exercise their authority to its full extent, to promote the humane objects aimed at in the Quakers' memorial.\*

Here is a clear exposition of the views of the committee, and here they set the example of receiving abolition petitions,—certainly in reference to Franklin's prayer, if not the Quaker memorial.

Tucker was warmly opposed to this report, offering as a substitute a refusal to take the memorial into consideration "as unconstitutional and tending to injure some of the States

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\* Hild. Hist., vol. i. second series, p. 184.



of the Union." This resolution, though it found some warm supporters, was declared out of order. Some of the most distinguished Southern members were decidedly opposed to this report; White and Moore, of Virginia, and Smith, of South Carolina, ably defended the South and the slave-trade. Slaves were required to cultivate our lands; a white laborer from the North required two dollars per day; this could not be given, and the plantations would be deserted. Baldwin thought the question ought not to be entertained, and all debate upon it was improper. Madison, cool, deliberate, and just as he always was, thought the report of the committee should be entered on the journals for the information of the public, and to quiet the fears of the South by showing that Congress claimed no power, and would exercise none, in reference to the prohibition of the importation of slaves before 1808, and never the power of manumission. The motion to enter the report upon the journal finally prevailed, by a vote of twenty-nine to twenty-five, and, as modified, it was thus entered:—

"That the migration or importation of such persons as any of the States now existing shall think proper to admit, cannot be prohibited by Congress prior to the year 1808.

"That Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them in any of the States; it remaining with the several States alone to provide any regulations therein which humanity and true policy require.

"That Congress have authority to restrain the citizens of the United States from carrying on the African slave-trade for the purpose of supplying foreigners with slaves, and of providing by proper regulations for their humane treatment, during their passage, of slaves imported by said citizens into said States admitting such importation.

"That Congress have also authority to prohibit foreigners from fitting out vessels in any port of the United States for transporting persons from Africa to any foreign port."

This was the first introduction into Congress of the slavery question, and it thus terminated for a time. It was not even at that period free from sectional feeling, but the debates were conducted with a decorum and dignity that should teach a high moral and practical lesson to the fanatics of the present day. It is a striking feature in this debate, and in the history of this report, that mild and constitutional and conser-

vative as it is, clearly declaring that Congress had no power to interfere with slavery in the States, and none to prohibit the slave-trade by the States, that the most animated opposition should have sprung from the South. It was South Carolina and Georgia that constituted the Southern opposition, with the addition of North Carolina, which still admitted the importation of slaves. A majority of the representation of Virginia and Maryland, though firm in their devotion to the South, voted for the report. Virginia was an advocate of the abolition of the slave-trade; many of her citizens favored emancipation; and whilst Virginia is more unanimous for slavery now than at the time of the debate upon this report, yet it is not true that she ever "leaned to anti-slavery views" when brought in conflict with the rights of the State, or when she supposed that there was to be an unconstitutional exercise of the powers of Congress over this her cherished institution.\*

From the date of this report, (in March, 1790,) a calm was given to the slavery question, which remained until 1804, at which time we find the existence of those abominable pests, "Societies for the promotion of the abolition of slavery," pressing their petitions before Congress.

Louisiana had but recently been added to the family of the States, when, in 1804, in the early part of the session of Congress, one of the Pennsylvania societies, with constant pretences for the welfare of the African, was found plying at the door of Congress Hall asking the prohibition of slavery in the newly-acquired territory.

They had seen the proceedings of a meeting of the people held at Vincennes, the object of which was to obtain a suspension of the ordinance of 1787, which prohibited slavery north of the Ohio.

The memorial was, in the first instance, referred to a committee, consisting of ———, at the head of which was John Randolph. This committee considered it dangerous and inexpedient to impair a provision, in their own words, "wisely calculated to promote the happiness and prosperity of the northwestern country;" expressing their belief "in the salutary operation of this sagacious and benevolent restraint, the inhabitants of Indiana would at no distant day find ample remuneration for a temporary privation of labor and immigration."

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\* Hild. Hist., second series, vol. i. p. 204.

1804.

The memorial just alluded to in reference to the extension of slavery in the newly-acquired territory, which was applicable to Louisiana, was at the next session referred to the committee on the government of that territory, of which Rodney was chairman. When the act was passed organizing the Territory of Orleans, a provision was inserted prohibiting slaves to be carried into that Territory, except by citizens from the United States moving into the Territory as actual and permanent settlers; but this provision did not extend to negroes introduced into the United States since 1798, the object of which provision was to counteract the effect of an act passed by the South Carolina Legislature to revive the slave-trade.

The committee, of which Rodney was chairman, reported in favor of a suspension of the prohibition of the introduction of slavery into the newly-acquired territory for ten years; but Congress took no action upon it.

With the resolution of Bard, a delegate from Pennsylvania, and the debate on it, closed for a season the attention of Congress in reference to a question always producing excitement and touching deeply the interest as well as the most delicate sensibilities of a large portion of the Southern delegation.

In addition to the restriction upon slaves in reference to Louisiana, Bard moved a tax of ten dollars upon all slaves imported.

The resolution was brought before the Committee of the Whole. Lowndes, of South Carolina, opposed the motion, though he regretted the step his State had taken. Bard defended the resolution as constitutional, and thought it was designed to operate, and would operate, as special legislation; it was still contended that it was a legitimate source of revenue; since the slave-trade made men articles of traffic, they were subject to impost like any article of merchandise. Nathaniel Mason, a wise man and always exercising a large influence, opposed the motion; he thought it was an effort on the part of the Government to correct a State for the undoubted exercise of its rights. As this debate progressed it elicited the talent of Southard and Mitchell, of New Jersey, Smilie, Lucas, and others,—Pennsylvania always furnishing a large corps of anti-slavery speakers.

Griswold, the veteran leader of the Federal party, opposed it upon the old ground taken by Ames and Sherman, that it would legalize the African slave-trade. Randolph preserved

a studious silence, though the talented and distinguished son-in-law of the President, John W. Eppes, gave the resolution his warmest support.

The bill of Bard, with a majority in its favor, was twice read and referred to the Committee of the Whole; yet no further action was ever taken on it, and it was allowed to die away without notice or honor.\*

I have taken a retrospective view of the slavery question in order to present its full history, as well as the development of the party that we will see has founded an existence upon it, and the manner and reasons of its being almost strictly geographical. It was a slight divergence, yet to maintain the continuity of the subject and its importance, will be my only excuse.

In recurring to the period at which I digressed, the most important, exciting, and interesting question was the trial of Aaron Burr for high treason. A personal sketch of this remarkable man, with the varied incidents of a long and eventful life, presents to the reader one of the most striking, and often the most offensive, characters ever exhibited by American history. Descended from enlightened, virtuous, and refined parents and grandparents, with every opportunity for moral and religious culture, the world was the more astonished at the fall and degradation that overwhelmed the son of science and genius. He studied well at school and exhibited great facility in mastering his lessons, yet an early waywardness seized upon his boyish imagination, and at ten years of age he was caught as a cabin-boy on an outward-bound vessel, whither he had escaped for the purpose of taking a sea voyage. He always exhibited talent, though the seeds of vice were soon germinating in his youthful bosom; even his latter collegiate years were given to vice and dissipation.

The breaking out of the Revolution and the flow of American blood on the field of Lexington, aroused the ardent temper of Burr; and, despite the urgent remonstrances of his guardian, he joined the army. He was with Arnold in his thirty-two days' march across the wilderness, when on his way to Chaudiere Pond, in Canada. He afterwards joined the detachment under Montgomery and became his aid; was with that gallant champion when he fell at the siege of Quebec, in the front ranks of the army, and near his general. The

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\* Hild. Hist., vol. ii. p. 504; Journ. Cong., 1804.



death of Montgomery gave Arnold the temporary command-in-chief of the army near Quebec, and Burr, only seventeen years of age, was called to perform the duties of brigademajor. He disagreed with Arnold and joined the army under Washington; he became a member of his military family. Washington, it appears, never gave Burr his confidence, and before the voice of impeachment against his fidelity or virtue had ever been raised, had lost all confidence in him.

It would exceed the limits of this work to enter minutely into the biography of this man. After frequent displays of valor and skill on the field of battle, he retired from the army. He studied law, was admitted to the bar, appointed Attorney-General of the State of New York by Governor Clinton, against whom he voted, elected to the State Senate, then the Senate of the United States, the judgeship of the Supreme Court tendered and refused; and all this eminence attained, this talent displayed and known from one end of the land to the other, before he had reached his thirty-sixth year.

The Presidential election of 1800, which was carried to the House of Representatives, the long and bitter contest between the friends of Jefferson and Burr, when it was palpably known that Burr's friends designed, in the nomination and election of the latter, that he should occupy the chair of the Vice-Presidency, proved the commencement of the fall of this man, whose career had been so brilliant, and against whom the talent and virtue of the country struggled arduously and ardently to suppress; and that with the greatest difficulty, if not a mere accident, which placed him in a minority of only one, and that against Thomas Jefferson. Had this result been different, had the great choice of the people been defeated by the House of Representatives, had Thomas Jefferson been consigned to the inert position of Vice-President, and Aaron Burr made President of the United States, a shock would have occurred to the institutions of this country which would have marred the bright and prosperous picture we present; even at this date as the reflection of Jefferson's administration exhibits to the world a nation of freemen long crippled and cramped in every human exertion for liberty.

No man occupied a more prominent position before the public than Burr, and he would have been the successor of Thomas Jefferson, had not the star of his destiny taken a downward turn from the moment of his election as Vice-President. Doubtlessly, the integrity of Burr had been sus-

pected long before. Washington had lost confidence in him at an early day.

Seeing, as he clearly must have seen, that he was rapidly losing the dignified position he had occupied with his party, he commenced that system of intrigue with the Federal party, for the purpose of supplanting Jefferson, which began to open the eyes of honest men. He was the object of increasing hatred to the virtuous portion of his own party, and equally despised by the honest Federalists. He saw the effort that would be made, and was ultimately successfully done, to supplant him at home. The Livingstons and Clintons, with the talent and virtue of Alexander Hamilton, whose name always calls to mind the dark stain of manslaughter that indelibly marks the name and character of Aaron Burr, were all justly combined against him. The unfortunate man, hemmed in on every side, with a combination of wealth, virtue, and talent against him, extending from the President and Government patronage down to the plain and honest yeoman, sunk with the rapidity of a falling star,—broken in fortune, crushed in hopes, and destitute of friends and character.

Thrown thus destitute upon a scrutinizing world, abandoned and undone, he fell an easy, and it may be said, a natural victim to every base and evil passion and habit.

The treasonable designs which occupied several years of Burr's life, spent mostly in the Western States, where he had once been arrested and discharged, led ultimately to his arrest, along with Generals Adair and Dayton, Blennerhassett, Swartwout, Alexander, Smith, Ballman, Ogden, and others. Burr and Blennerhassett alone were brought to trial. After much delay, unavoidable in criminal trials, the initiatory steps in this cause commenced on the 22d of May, 1807, before the Circuit Court of the United States, in the City of Richmond, John Marshall, the distinguished Chief-Justice of the United States, presiding. The prisoner and several of his associates were pronounced by the grand jury guilty of treason. He was committed to prison, but upon the urgent representation of counsel, that the common jail was destructive of the health of the prisoner, he was allowed to occupy the rooms he had been using in the penitentiary, and was placed under guard. On the 3d day of August, the court having adjourned to that day, commenced the trial of Aaron Burr before a jury of his countrymen, which continued until the last day of the month, when he was acquitted of high

treason. The great effort of Burr's counsel was the impeachment of the testimony of Eaton and Wilkinson; insisting, in respect to Wilkinson, that he was a confederate of Burr, who had betrayed his undertaking with the hope of securing himself from a public prosecution. With a view to injure to a still greater extent the honor and integrity of Wilkinson, it was also insisted that he had been a Spanish pensioner, and engaged many years in intrigues against the Union.

It was caught at by the Federal newspapers and industriously circulated throughout the land. John Randolph, in his bitterness, introduced it into Congress, whose perseverance and obstinacy ultimately resulted in an investigation by Congress, and the honorable acquittal of General Wilkinson.

The evidence having closed, after a long and tedious investigation, the argument of counsel commenced; it was able and eloquent. Hay, the attorney for the District, was assisted by the eloquent and gifted William Wirt; whilst Luther Martin and John Wickham, alike distinguished for learning and talent, conducted the defence. Burr was finally acquitted. He had no doubt digested his plan of treason; but the cunning and caution of the prisoner, so confused and secret were his doings and motives, that the testimony utterly failed to convict him even of a misdemeanor, for which he was afterwards put on his trial.

It was the opinion of the court, that the assemblage on Blennerhassett's Island was not a military array in the sense in which it would apply if treason was proven. Thirty or forty men had been seen there and with arms; it was no more a military organization than had often accidentally met on the same island, consisting of boatmen, on the Ohio; or had it been a military array, there was no proof that Burr or Blennerhassett had ever any connection with it. Consequently the jury returned a verdict of not guilty, and the indictments for treason which had been found against Blennerhassett, Dayton, Smith, Tyler, and Floyd, were dismissed. Burr and Blennerhassett were committed to be tried afterwards in the District of Ohio, for projecting a military excursion against the Spanish Provinces; they were held to bail in the sum of three thousand dollars each, which they forfeited. Burr soon afterwards withdrew himself from the country, and quiet ensued; the nation was freed from the efforts of treason which had been scattered over the country from one end to the other, as annoying to the people as piracy

upon the high seas is to the honest sailor. It is somewhat remarkable, but it exhibits the cunning of all concerned in this strange enterprise, that the only man punished among the many brought to trial on account of the conspiracy, was a comparatively humble person named Floyd, who was tried in the Territory of Indiana and found guilty of a misdemeanor.

No single event in one man's life ever occasioned more excitement or attracted more public notice than the trial of Burr; he had occupied a position before the American people surpassed by no one; he had won a popularity in the camp, upon the husting, and at the forum, which no man could excel, and it was sustained by an energy and a genius scarcely ever equaled, and capable of any social, political, or military emergency that could arise.

He returned from Europe, having failed to ingratiate himself with Napoleon, who looked upon him as an English spy; discarded in a great measure by the virtuous of England, he reached his native shore to die in poverty, largely in debt, rejected by his own people and former companions, and utterly destroyed in every human hope and manly aspiration.

Treason is fully and clearly defined in the Constitution of the United States, "which shall consist only in levying war against them (the United States,) or in adhering to their enemies, giving them aid and comfort." There cannot be a conviction unless on the testimony of two witnesses to the same overt act, or on confession in open court.

By the act of the 30th of April, 1790, it was enacted,—  
"If any person or persons, owing allegiance to the United States of America, shall levy war against them, or shall adhere to their enemies, giving them aid and comfort, within the United States or elsewhere, and shall be thereof convicted on confession in open court, or on the testimony of two witnesses to the same overt act of the treason whereof he, she, or they shall stand indicted; such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death."

The term levying war, used in the Constitution as well as in the statute, is technical; it was borrowed from the English law, having the same meaning as when used in the Statute 25 Edw. III., comprehending as well those who create or raise war, as those who make it or carry it on.\* A conspi-

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\* *United States v. Burr*, 4 Cranch, p. 471; *U. S. v. Fries*—Trial, p. 167.  
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racy to levy war is not treason.\* A secret unarmed meeting of conspirators, is not treason, if not in force or warlike form, though assembled with a treasonable purpose; nor the actual enlistment of men to serve against the Government, but high misdemeanors, and punishable in such manner as Congress may provide.†

In respect to those who are to be considered levying war, all persons leagued in the conspiracy who bear arms, and those who bear the various and essential parts of prosecuting the war, which must be assigned to different persons, may all be said to levy war.‡ It has been decided that the words "owing allegiance to the United States" embraced in the statute, are mere surplusage, not affecting the sense in the slightest degree; treason is a breach of allegiance and can only be committed by one owing allegiance, either perpetual or temporary.§

Any combination to subvert, by force, the Government of the United States; violently to dismember the Union; to compel a change in the Administration; to coerce the repeal or adoption of a general law, or to revolutionize a Territorial government by force, although this be merely a step to or a means of executing some greater projects, is a conspiracy to levy war; and if the conspiracy be carried into effect by embodying and assembling men in force and in a military posture for the purpose of executing the design, it is treason by levying war.||

It has been decided, however, if the intention of such conspiracy be merely to defeat the operation of a law in a particular instance, or through the agency of a particular officer, from some private or personal motive, though it is a high offence, it is not treason.¶

Without pursuing the details of this subject with greater minuteness, it must be a source of great satisfaction to the American reader to reflect, that treason and treasonable designs are of the rarest occurrence with us, and the consummation of such purposes utterly impossible. In monarchical Governments, the throne is sustained by wealth,

\* *United States v. Burr*, 4 Cranch, pp. 471, 472.

† 4 Cranch, pp. 126, 486.

‡ *United States v. Burr*, 4 Cranch, pp. 472, 473, 502.

§ *United States v. Wiltberger*, 5 Wheat., p. 97.

|| *United States v. Burr*, 4 Cranch, p. 483.

¶ *Fries's Trial*, charge of Iredell, J.

which in its turn employs the sword; and it requires a vigilant eye and a well-nerved arm to suppress the virtue, intellect, and moral rights of the subject. Here the foundation of the Government rests upon the affections, loyalty, and admiration of all classes, the rich, the poor, the enlightened, and the illiterate; whilst each citizen holds himself on the alert to catch the slightest breath of treason that may be wafted over the land, that he who utters it may receive the condemnation of the law.

The exigencies of the times, the impending difficulties with England and France, and the embarrassments likely to gather around the Executive, were the causes of the convocation of Congress, at an earlier day than usual, by the President of the United States. 1807.

The President submitted his Message on the 27th of October; Jefferson, with his characteristic prudence and caution, makes no specific recommendation in this Message. He called the attention of Congress to the effort which had been made by our Ministers to effect a liberal and honorable treaty with the English Ministers; that the commissioners, after failing in their purpose to obtain arrangements within the limits of their instructions, signed such as could be obtained, and transmitted them for consideration. The treaty fell so far below every right that might have been expected, that the President decided at once not to submit it to the Senate; he had received it but the day before Congress adjourned from the hands of Mr. Erskine, the British Minister. The President was much censured for rejecting the treaty without sending it to the Senate; the Federal party were of course loud in their clamor against him, and it was much regretted by the commercial community. Yet, upon reflection, it would seem that Jefferson did right; his object was to prolong the negotiation. The treaty had the insuperable objections of containing no provision upon the subject of impressment, but was accompanied by a note from the British Minister, reserving to his Government the right of releasing itself from the stipulations in favor of neutral rights, if the United States submitted to the Berlin decree or other invasion of those rights by France. The treaty was no better than that negotiated by Jay, and the President could not have done otherwise than reject it. It was simply a matter of discretion and right which he had, to submit the treaty to the Senate or not. This course had an injurious impression upon the Bri-

tish Government, as indicative of a disposition to prolong the existing difficulties. The matters in controversy were referred back to the Ministers. "On this new reference to amicable discussion, we were reposing in confidence, when, on the 22d day of June last, by a formal order from the British Admiral, the frigate *Chesapeake*, leaving her port for distant service, was attacked by one of those vessels which had been lying in our harbors under the indulgences of hospitality, was disabled from proceeding, and had several of her crew killed."\*

As soon as the news of the capture of the *Chesapeake* reached the Executive ear, he ordered, by proclamation, our harbors and waters to be closed to all British armed vessels; an armed vessel of the United States was dispatched with instructions to our Ministers to call on the Government at London for the satisfaction required by such an outrage.

Canning, who entered the British Ministry on the death of Fox as Secretary of Foreign Affairs, disavowed the act in reference to the *Chesapeake*, tendered reparation, and issued an order recalling Berkeley from his command.†

Thus far the prospects of a speedy adjustment of our difficulties wore a smiling aspect, though England refused to grant that which a just and liberal policy demanded; and when the question of impressment was brought up in connection with the outrage upon the *Chesapeake*, we were repulsed for endeavoring to connect the two questions; the former they considered an unquestionable British right and would not negotiate upon it, the latter they would make reparation for.

The President, satisfied that he was right, would not abate one jot or tittle of the right to stop the impressment of our citizens. The English Government, with much assumption and in the very face of international as well as moral right, issued its proclamation, calling on all British mariners employed in the service of foreign nations to return home, and all commanders of ships of war were authorized to seize and bring away from foreign merchant-vessels all British mariners; all who were found serving on foreign ships of war were to be demanded, and if not returned, the commanders of vessels were to report to the British Minister resident at

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\* Message of October 27th, 1807.

† Amer. State Papers, vol. vi., and Cor. of Monroe and Pinckney.

the Court of the nation whose flag floated over the refusing ship. This proclamation was justly objected to by Monroe; yet he received the repulsive reply that 1807. it was in obedience to the established law of England.

Monroe came home, leaving Pinckney in London as resident Minister. Previous to his departure, the British Minister had made a final reply to the proposition to open negotiations upon the basis of the treaty which Jefferson had rejected. Canning protested against the course the President had pursued with the late treaty, which had been signed by the contracting parties and sent to Washington for ratification. He would not proceed with the negotiation upon the basis of the treaty which had been rejected.\*

Thus was wasted upon the haughty arrogance of England every fair and honorable effort to avert the war which followed. The peaceful relations which ought to have existed were interrupted by the domineering course of that Government from whom we had wrenched our liberties, but who appeared unwilling to extend to us those principles of high national right which belonged to us as a nation; and whilst sternly refusing the simple acknowledgment of rights inseparable from American liberty, little did the British cabinet think they were trying to extinguish those principles of civil liberty which, though they would not recognize as even true or just, were soon destined not only to a world-wide homage, but to an immortal vitality. Not only will the principles of free government exist as long as man will hold his habitation on earth, but those principles of international right, rescued from the iron hand of England, will flourish over the earth in undying youth long after the English throne shall have crumbled to the dust.

It was our aim, as it has been our policy, to steer clear of the entangling relations then existing in Europe. We were placed geographically beyond the reach or policy of European affairs; peace evidently was the great object with us; we were a young and vigorous people, designed at that time to till the soil, to build up a navy, and reap the bountiful results of a commerce that should ride over every sea, with a trade that should reach the ports of the world. Had not this war, which was fast approaching, been fastened upon us by the very first

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\* Amer. State Papers, vol. vi.; Hild. Hist. of the U. S., second series, vol. ii. p. 684.



law of human nature, obstructed for a season the bright path we were pursuing to unbounded commercial wealth, the magnificent position we would have occupied would, at an earlier day, have dazzled the eyes of the world.

As it happened, we were forced to fight England or submit to degradations that would have ended only with our extinction as a nation. But I will not anticipate the periods and events which are yet before me, and are to be approached through the many trials and storms that gathered around the vessel of State.

The commerce of the country, and its financial operations, had been conducted with great skill and talent, and commands our especial admiration, when it is remembered how many interruptions and vexatious harassments beset it on every side.

When the President communicated his Annual Message of the 27th of October, 1807, the receipts of the Government had amounted to nearly sixteen millions of dollars, which, added to the five millions and a half in the Treasury at the beginning of the year, enabled the Government, after meeting its current demands and paying interest on its debts, to pay more than four millions of the funded debt.

These payments, with those made in the five years preceding, had extinguished twenty-five and a half millions of the funded debt, which was the whole that could be paid or purchased within the limits of the law and our contracts; and which left us in the Treasury eight millions and a half of dollars.\*

It is painful to turn from the bright picture of commercial wealth and power, which would have rapidly flowed over the land, to the devastation which was spreading throughout the fairest portions of Europe. The Executive did all that prudence and skill could require to avert the storm from pouring a portion of its fury upon our own land, but it was in vain.

The mind of man is astonished and distressed, as he looks across the troubled waters and beholds the dreadful carnage, and the destructive influences of European war and bloodshed, at this period. After the treaty of peace, which had been negotiated by Jay, our shipping interest received scarcely an impediment. European warfare had enriched our merchantmen beyond example. It was a national millennium, which

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\* Jefferson's Seventh Annual Message, Stat. Man., vol. i. p. 203.

continued until about the year 1804, when those violent flames of war, which the peace of Amiens had smothered for a season, broke forth with an inveteracy which shook the old thrones of Europe to their very centre. Britain alone seemed to stand unsubdued amidst the mighty conquest of Napoleon; and it was this man who made the first encroachments upon neutral rights. It was on the 21st of November, 1806, that Napoleon defeated the Prussians, and from the capital of their kingdom, from the very walls of the royal palace, issued his Berlin decree, declaring the British Isles in a state of blockade, subjecting every American or neutral vessel of other nations going or coming from those isles, to capture. It further declared merchandise coming from England or its Colonies, belonging to neutrals, to be lawful prize on land.

Our Minister at Paris regarded the Berlin decree as inapplicable to us, being grossly violative of the existing treaty between the United States and France. But, in 1807, General Armstrong was informed by the French Minister of Foreign Affairs of the condemnation of American vessels.

A bold and reckless spirit, utterly careless of right and justice, had occupied the cabinets of Europe, and that of England was not exempt from the violence of the fever. On the 11th of November, 1807, the well-remembered *orders in council* were issued, the object of which was to destroy all direct trade from America to any port of Europe at war with Great Britain, or which excluded the British flag; or if the merchants of America or other neutrals chose to pay exorbitant tribute to England, this haughty Leviathan of the deep allowed goods to be landed, required a heavy duty to be paid, and then permitted them to be reshipped to other parts of the globe.

Napoleon, increasing in wrath not only towards England, and wishing to destroy her commerce, but aiming a still more effective injury towards the United States, issued from the royal palace at Milan, on the 17th day of December, 1807, his famous Milan decree, which not only declared the British Islands in a state of blockade both by sea and land, but every ship sailing from English ports as good and lawful prize, and liable to capture by the French ships-of-war or privateers.\*

This, in the language of the decree, done "only in just retaliation of the barbarous system adopted by England,

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\* American State Papers, vol. vi. p. 471.

which assimilates its legislation to that of Algiers, shall cease to have any effect with respect to all nations who shall have the firmness to compel the English Government to respect their flag."

France at this period held no sway on the ocean; even her fleets had been transferred to her powerful and victorious rival; she could scarcely preserve a single cruiser against the unrivaled discipline of the British navy, and in this respect she could only wage a combat of decrees.

It is evident that both England and France not only assumed an attitude the most inimical towards the United States, but that England burned with a jealous rage because the United States had delayed so long resistance to the feeble marine of France; whilst France was equally enraged that we, as neutrals, had so patiently suffered the encroachments of England. Both continued their depredations, and were each anxious that we should be embroiled in war with the other. England continued more aggressive and constantly added to the many causes of irritation which she had imposed upon us, by the insufferable custom of searching our vessels and impressing therefrom American as well as British seamen,—a practice against the free principles of her own constitution; against a just, liberal, and enlightened international policy; barbarous even beyond example, and certainly incompatible with the dignity of the liberty of America. Added to all these, was the climax of audacity and insult in the affair of the Chesapeake on the 22d of June, of which mention has been made.

In the midst of all this difficulty, when every vessel of the United States seemed doomed to the avarice of France or the rapacity of England, when public indignation was lashed to its highest fury, and an insulted nation panted ardently for the contest,—and that with England, the greatest offender,—the President sent to Congress, on the 18th day of December, 1807, a special and confidential message, recommending an embargo on all vessels of the United

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States. It was only one day after the Milan decree,—of which Jefferson, of course, had not heard; nor did he make mention of the British orders in council, which had been issued on the 11th of November preceding; yet there is no doubt, but that he had been apprised of them through an authentic private channel; as we are informed by Tucker,

in his life of Jefferson, and upon the authority of the Secretary of State.\*

This subject was immediately brought under discussion in both Houses of Congress. A bill was passed on the day of its first introduction in the Senate, in obedience to the recommendation of the President, by a vote of 22 to 6. It was discussed in both Houses in secret session, and on Monday, the 22d of December, at eleven o'clock, it passed the House by a vote of 82 to 44.†

The bill prohibited all American vessels from sailing from foreign ports, all foreign vessels from taking out cargoes, and all coasting vessels were required to give bond to land their cargoes in the United States.

Many American statesmen, as well as a large party in the United States, were violently opposed to this measure; Randolph denounced it with much bitterness as the "Iliad of all our woes." It was evidently designed as a coercive measure to restore amicable relations with England, and she suffered much; but it fell with greater violence upon the commerce of the United States. It failed in its primary object, though Canning urged its repeal. It was a kind of retaliation not only unmanly, but unworthy a strong and growing nation. If England had given us cause for war, and it could not be removed, we should have gone into the contest with an energy and boldness characteristic of our people; with a force that would have shivered the trident in her grasp, and made her very throne tremble from the shock. It was unjust to our own commercial people. Permit no shackles upon trade; let our merchants encounter the risk and dangers of the sea; if profitable, they would have clung to it, even beneath the guns of England; the moment it ceased to be a source of profit, that moment all trade with foreign nations would have ended.

It ruined for a season, a commerce that had given employment to a million and a half tons of navigation, and occupation for hundreds of thousands of our citizens, and had spread wealth and prosperity throughout the land. We were confined to a coasting trade between the States; the noblest of our ships that traversed the ocean were thrown upon the hands of our merchants as worthless lumber; the

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\* Tucker's Life of Jefferson, vol. ii. p. 249.

† Ibid.; Journal of Congress—Session 1807-8.



plentiful products of a generous soil wasted and decayed on the hands of the agriculturists; the comforts of life which we had been accustomed to gather abroad were cut off; the scarcity of apparel was but inadequately relieved by the feeble efforts of domestic manufacture, for which we were unfit, and which in no possible necessity was or could be suited to our interests; and if its origin be traceable to an unavoidable necessity, its injury at the time was very great, and has been considered by some statesmen the nucleus of that principle which has in later times diverted or seduced the energies of our people from the cultivation of the land, and ploughing every wave of the ocean with the rich freights of a boundless commerce, into a system of manufacturing, which fattened only under the wing of sectional legislation. If we consider it a trial between the two nations which could endure the evil the longest, the result must be more favorable to Great Britain, inasmuch as we deprived her only of our own trade, whilst we endured the deprivation of the trade of the world.

A protracted and exceedingly diplomatic correspondence, especially on the part of England, was entered into between the Ministers of the two countries, in reference to the storms  
 1808. that were gathering around us; which terminated  
 for the present with a communication from Erskine to the Secretary of State.

This communication contained a copy of the British orders in council of which so much has been said. Written with that skill and adroitness which so eminently belonged to Erskine, he yet failed in his effort to convince that the great system of retaliation which at that time marked the international course of England was aimed at France, and not us. He boldly maintains, as belonging of right to Britain, to issue her *orders in council*; yet he was commanded by his King "especially to represent to the Government of the United States the earnest desire of his Majesty to see the commerce of the world restored once more to that freedom which is necessary for its prosperity, and his readiness to abandon the system which has been forced upon him, whenever the enemy shall retract the principles which have rendered it necessary."\* The true intent of the spirit of the understanding of this voluminous correspondence will be fully appreciated by reference to the report of the Senate, made through the chair-

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\* American State Papers by Wait, vol. vi. p. 476.

man of the committee, Mr. Anderson, to which the papers had been referred. This report was made April 16, 1808. It recapitulated the outrages which England had inflicted upon us, which amounted to impressment from American vessels on various and repeated occasions; the numerous orders in council and decrees for blockades. There were many decrees and acts of the French Government 1808.

from which much injury and outrage had been imposed upon our commerce; whilst England was more aggressive than France, yet the committee forebore to enter into a comparative view of the proceedings of the different belligerent powers. France had been guilty of many seizures of our cargoes upon the high seas, but had never asserted or maintained the doctrine of impressment, or the right of search.

In reviewing the different ways of redress which were open to the United States, this committee enumerates,—a protection of commerce by ships of war; a protection of it by self-armed vessels; a war of offence as well as of defence; a general suppression of foreign commerce; an embargo on our vessels, marines, and merchandise. The last was the one which had been adopted, and was highly sustained by the report of the committee and also in the Senate, and recommends a continuance of the embargo as the best policy to secure the blessing of peace.\*

Opposition out of the halls of Congress continued to increase more and more, as the pressure was more and more felt. Unfortunately, it was the source of unbounded fraud and corruption; Eastport, in Maine, and St. Mary's, in Georgia, each on the frontier, the one communicating with the British territory of New Brunswick, the other with the Spanish territory of Florida, were great store-houses for the smuggling trade with the West Indies and other markets. The attention of Congress was soon excited to arrest this and many other invasions of the embargo laws. It resulted in a third supplementary embargo act, requiring all lake, river, and bay crafts to clear in due form, like sea-vessels, to furnish the collectors with manifests of their cargoes, and also with proof, in two months afterwards, that the same had been reloaded in the United States. Sea-vessels could take no cargo except under the inspection of a custom-house officer; collectors could seize and detain suspected vessels; the special

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\* Wait's State Papers, vol. vi. p. 481.

permission of the President was necessary to grant clearances to ports adjacent to foreign territories; unusual quantities of produce and merchandise in such ports were liable to seizure and detention, until the owners could give bonds not to carry them out of the United States; foreign vessels could not enter the coasting trade; the penalties were largely increased, and even gun-boats were furnished for searching and seizing all suspected vessels.

The President, who had imbibed too strong a love for the embargo as a retaliative measure, and with the exercise of a rather doubtful authority, issued orders to the collectors of the customs not only to detain suspicious vessels, but to grant no clearances to vessels laden with flour. Massachusetts and other States who had to import flour, were compelled to rely upon the permit which their governors could give other vessels to enter their ports, or authority to special individuals.

An effort was made to put a similar restriction upon the rice of South Carolina; but Johnson, of the Supreme Court of the United States, (appointed to the judgeship by Jefferson,) with a proper appreciation of the right and dignity of his State, though he occupied a place which is but too often supposed to be a *Golgotha* for State rights, issued his *mandamus* to the officer to grant clearances.\*

It is manifest that the injury and deprivation was alarming and even distressing to many portions of the Union in being deprived of the entire export trade of the country, and whilst opposition was intense, it is surprising how the President, with the influence of his Secretary of State, succeeded in fastening this measure upon the country; and nothing but the great executive influence of Jefferson and his leading cabinet minister Madison, could have given it the vitality it possessed.

John Quincy Adams made a motion in the Senate to inquire how soon the embargo might be repealed; but it was summarily rejected.

The President had a large majority on the floor of Congress, where much zeal was exhibited in behalf of the embargo. In the State legislatures the Administration had strong supporters. The legislatures of Virginia, Maryland, and, what was somewhat more singular, Pennsylvania and Massachusetts, approved the embargo by strong resolutions; and it

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\* Hild. Hist. of the U. S., second series, vol. iii. p. 70.

was sustained in the agricultural States; though under its operation wheat had fallen from two dollars a bushel to seventy cents.

On the 7th of November, 1808, Congress assembled, the time being appointed at the last session. On the next day Jefferson transmitted to both Houses his Eighth and last Annual Message.

Congress had convened under that state of excitement which had begun to pervade and agitate the public mind to the very highest grade. The Message of the President related chiefly to the foreign affairs of the country in connection with the belligerent nations of Europe, whose disregard of neutral rights had been so destructive to our commerce. France and England had exhibited a disposition to have the American ports opened to their commerce, having pledged their readiness to renounce the destructive policy they had been pursuing; whereupon the President, under the authority vested by the act laying an embargo, would have immediately suspended it. The President informs Congress of the failure of the arrangement, and submits to its wisdom and discretion the proper steps to be taken which the crisis demanded.

Whilst the Message regrets the injury done our commerce by the restrictive system, it also makes allusion to the benefits likely to become permanent, resulting from domestic manufactures.

The accounts from the Treasury though not fully made up, exhibit, up to the year ending the 30th of September, the receipt of nearly eighteen millions of dollars, which, with eight millions and a half at the beginning of the year, enabled the Government, after meeting the expenses of the current year, to pay two million three hundred thousand dollars of the funded debt, with a balance of fourteen millions in the Treasury. The reader will observe in referring to this Message, that Thomas Jefferson,—the very embodiment of *strict construction*,—recommends that the surplus revenue, instead of being reduced to the standard wants of the Government, should be retained and expended in “the improvements of roads, canals, rivers, education, and other great foundations of prosperity and union, under the powers which Congress may already possess, or such amendments to the Constitution as may be approved by the States.”

On the 11th of November, so much of the President's Message as respected our foreign relations



was referred to the appropriate committee of the House, of which Campbell was chairman. This report, which was said to bear the impress of the combined talent of Jefferson and Madison, was received by the House as a reflection of the Executive will.\* It is an able, manly, and efficient review of the protracted and multiplied injuries which had been inflicted upon us; but at the same time it clearly acknowledges that a permanent suspension of commerce, after frequent and unavailing efforts to obtain peace, would not properly be resistance. It would be an abandonment of our indisputable right to navigate the ocean.† It was advised to maintain the embargo a while longer with the hope of inducing the belligerents to abandon their policy; but, after all, the true and real means of resistance was war. Yet it was not compatible with our condition or inclination to encounter both England and France.

The report recommended,—

1st. That the United States could not, without a sacrifice of their rights, honor, and independence, submit to the late edicts of France and Great Britain.

2d. That it was expedient to prohibit the admission of either the ships or merchandise of those belligerents into the ports of the United States.

3d. That the country ought immediately to be placed in a state of defence.

It was on the same day that Campbell's report and resolutions were introduced into the House that an animated and able debate occurred in the Senate on a resolution offered by Hillhouse for a repeal of the embargo, which was sustained by

1808. Lloyd and Pickering from Massachusetts, as well as by White, the Senator from Delaware. The Administration was sustained by Giles and Moore, of Virginia, Mitchell, of New York, Smith, of Maryland, Pope, of Kentucky, and Crawford, of Georgia. After ten days' debate, the resolution offered by Hillhouse was rejected by a vote of 25 to 6. On the 28th of November, the discussion in the House was opened by a speech from Campbell, which was very much a rehearsal from his report as chairman of the Committee on Foreign Relations.

\* Hild. Hist. of the U. S., second series, vol. iii. p. 96; Stat. Man., vol. i. p. 261.

† Report of the Committee on Foreign Relations, Nov. 22, 1808; Amer. Stat. Papers, vol. vii. p. 75.

The embargo encountered an able opposition from the Federalists, whose leader on this occasion was that distinguished debater Josiah Quincy; the champion of the opposition, though not of the Federal party, was John Randolph, who delivered several speeches which rank among the ablest and most brilliant of his life.

The reader may easily apprehend the spirit which moved the Administration, as well as the ground upon which the Federal party stood, enlisting in opposition to the embargo some coadjutors who despised in other respects all affiliation with them, and most conspicuously among whom will be found the undying name of Randolph, of Roanoke.

As was contended by Quincy, the decrees of France prohibited our trading with Great Britain; whilst the orders of the latter would prevent our trading with France, and our embargo, in direct subserviency to both, prohibited our trading with either. It was an effort on the part of England and France to destroy the trade of each, and we were sustaining either the oppressive policy of Napoleon or the avarice of England, and in doing so it was the destruction of the trade of our countrymen. It was chiefly opposed by New England men, because commerce was (as it is now) not only associated with all their feelings, and habits, and interests, but the nature of their soil, of their coasts, the state of their population, and the mode of its distribution over their territory rendered it indispensable to their well-being. In the language of Quincy, they possessed five hundred miles of sea-coast, all furnished with harbors, bays, creeks, rivers, inlets, basins, with every variety of invitation to the sea, with every species of facility to violate the embargo laws, with a people not scattered over an immense territory, at a solemn distance from each other, in lordly retirement, in the midst of extended plantations and intervening waste, but collected on the margin of the ocean, by the sides of rivers, at the heads of bays, looking into the water or on the surface of it, for the incitement and the reward of their interest. Among such a people, deprived of their daily avocation as well as their daily bread, it was impossible for them to remain unexcited beneath such pressure and hardship.

It was contemplated to add twelve additional revenue cutters to enforce the embargo laws. "Multiply the number by twelve, multiply it by a hundred, join all your ships of war, all your gun-boats, and all your militia,—in spite of them

all, such laws as these are of no avail when they become odious to public sentiment. Continue these laws any considerable time longer, and it is very doubtful if you will have officers to execute, juries to convict, or purchasers to bid for your confiscations.”\*

The friends of the embargo were chiefly from the South, and it must be attributable to the influence of Jefferson and Madison, added to the fact that the South being an agricultural people, did not feel the pressure so soon or so sensibly as the people of the North.

The New Englanders were taunted with avarice, in not being willing to endure the privations which the embargo created, when honor demanded retaliation. “We have done everything for commerce,” said a distinguished member from the South; “we have negotiated for it; we have jeopardized the peace of the country for it; we have passed an embargo to protect it, and commerce is now the first to abandon us. Suppose the embargo raised, none would trade but men of bankrupt character and desperate fortunes. Permission to arm is tantamount to a declaration of war; and do you think we are ready to plunge headlong into a ruinous war, naked and unarmed, to gratify a few bankrupt commercial speculators? The embargo would always have had its effect as a measure of retaliation, but for the anti-embargo men of Massachusetts.”†

Giles, of Virginia, then a member of the United States Senate, occupied the same position with Troup, a member of the House from Georgia, and contended that opposition to the embargo in New England was the work of demagogues, anxious to reinstate themselves in power.

To whom Pinckney replied, in bold and animated defence, citing, as among those who opposed it, the immortal Ames, and others of equal patriotism, though of less talent. Ames wrote as long as he had strength to hold a pen, and died on the anniversary morning of the nation’s birthday, the 4th of July, 1808, with the prayer on his lips, “God save my country.”

The charge of demagogism, avaricious policy, and such violent epithets and abuse as were heaped upon the New

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\* Speech of Josiah Quincy, delivered in the House of Representatives, Nov. 28, 1808.

† Troup’s Speech in the House of Representatives.

England men, was violently and bitterly hurled back upon the Southern members of Congress, as well as the Administration, by ascribing the embargo to French influence, operating on Jefferson and his cabinet, and through them upon the members.\*

It is strange, indeed, that a policy so suicidal, working injury and devastation throughout the land, should have been so well sustained. It was felt at the South in a diminished extent to what it was at the North, yet it contained the seed of that policy (the manufacturing interest) which, when fostered by the very men who opposed the embargo, has thrown the South far and lamentably in the rear of our national progress as compared with the North. The report and resolutions of the Committee of Foreign Relations were carried,—the two first by a vote of 84 to 30, the last unanimously.

The resolution offered in the Senate by Hillhouse, of Connecticut, to repeal the embargo law, was voted Dec. 2,  
1808.  
down by 25 to 6.

It was in pursuance of the third resolution that the House voted an appropriation of four hundred and seventy-five thousand dollars, which was applied to fortifications, principally at New York; four additional frigates were ordered to be equipped, and three thousand six hundred additional seamen to be enlisted.

As a matter of the first importance, the attention of Congress was directed to the financial condition of the Government. It was the sanguine expectation of the opponents of the embargo, that its existence would be speedily closed by the wants of the Treasury; yet they were mistaken; the effect on the finances was not seriously felt, on account of the large surplus of seventeen millions of dollars, beyond the annual expenses of the Government, which was on hand when the embargo was established. The new year (1809) would commence with money and bonds to the amount of sixteen millions of dollars. This amount was required to be set aside to meet the annual expenses, which, according to the existing rate, was thirteen millions, including eight millions for the interest and reimbursement of the public debt.

If the country was to be put in a state of defence, in the just apprehension of an approaching war, it would absorb

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\* It was calculated in the fall of 1808, that the suspension of exports had imposed a loss of nearly thirty millions of dollars on the maritime interest.



more than this large surplus of eight millions of dollars. Under existing circumstances but little hope could spring from a reliance on commerce. If the thought of war was abandoned, a loan of five millions would scarcely serve the demands upon the Treasury for the ensuing year. The universal cry of the Federalists was, that the country would be crushed beneath the weight of direct taxation, the oft-repeated lamentation of an unmanly sect who neither feel nor know the unfailing willingness and ever-sustaining ability of the people of the United States. At the early meeting of Congress these anticipations were dissipated, like the flying cloud before the morning sun, by the lucid and powerful report of the Secretary of the Treasury. It was impossible that we could be harassed with frequent war; our geographical position, as well as the fixed policy of the nation, forbade it: and he clearly opposed the idea of a resort to loans, under the belief that even a diminished revenue from imports would be sufficient; he was fully persuaded that a resort to direct taxes would never be required; the war could not be so protracted as to place it beyond the power of the Government, upon the return of peace, to meet the existing indebtedness from the duties on imports. This view of Gallatin proved ultimately unsound; and such views ever will be so. No statesman or financier ever approximates the expenses or duration of a war. If the receipts of the Treasury proved insufficient, a loan, he thought, with doubling our duties, would meet the exigency.\*

The effects of the embargo were becoming more dreadful every day, whilst its increasing unpopularity was decidedly manifested from the increasing violence of the means resorted to by Congress to enforce it. It was necessary to pass a law, which received the name and is known in history as the *Enforcing Act*, to sustain the unjust and oppressive cruelty of the embargo. "More effectually to enforce the embargo." Giles, a Congressman from Virginia,—who, with but little learning, yet possessing a native intellectual vigor, united with much practice upon the floor of the House, had become a most skillful debater,—was the author of this *act*, which, after a sharp debate, was hurried through a midnight session of the House; suitable time, in its deepest darkness,

Jan. 9,  
1809.

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\* Reports of the Secretary of the Treasury, 1808-9. Printed by order of the Senate of the United States.

for such an act, which forfeited every vessel or boat, with every kind of cargo, loading at any of the ports of the United States, to be carried off in violation of the embargo, or to be placed on foreign boats, to be carried off. Collectors were also required to seize all goods "apparently on their way" to any foreign power, and hold them until bonds were given for their delivery in some port of the United States, not adjacent to any foreign territory. Many other harsh and despotic features existed in this law, even to authorizing the President to employ the army and navy, and to hire thirty additional cruisers, to keep in entire and unlimited subjection every species of foreign commerce.

The effect of the embargo was as injurious in some respects to Great Britain as to the United States; indeed, it had been admitted by Canning to be palpably so; hence his proposition to repeal it, and restore to his country, perhaps, the most important branch of her trade.

It has been supposed that the offer was made because the repeal would be more likely to promote the views of Great Britain than the orders in council, not only in extending her trade, but in bringing the United States in conflict with France. At this time, and even before the passage of the Enforcing Act, a political crisis had arrived which doubtlessly would have severed the Union, had not the Administration and its party taken a course which resulted in the repeal of the embargo. Meetings were held in New England to protest against it, and also in Albany and the City of New York. The Federal papers of Boston, in announcing the passage of the Enforcing Act, proclaimed, with their columns signalized in mourning, that "Liberty is dead." General Lincoln, and many other custom-house officers, resigned their post, rather than be the instruments for enforcing this last feature of the embargo.

The merchants had determined, and thus gave notice, that in every instance of seizure they would institute suit in the State courts.

A Boston town meeting resolved not to assist in carrying the Enforcing Act into execution, and that all who would, ought to be considered "enemies to the Constitution of the United States, enemies to the State of Massachusetts, and hostile to the liberties of the people."

A violent and most decided report passed the Massachu-

setts Legislature, pronouncing it "unjust, oppressive, and unconstitutional, and not legally binding."

John Quincy Adams, who had resigned his place in the Senate of the United States, on ascertaining that his course in sustaining the Administration was not in accordance with the views of his constituents; but returning to Washington with the ostensible purpose of attending the Supreme Court, he, however, having sought an interview with the leaders of the Administration party, communicated to Giles, W. C. Nicholas, and Robinson, a Senator from Vermont, "That a continuance of the embargo much longer would certainly be met by forcible resistance, supported by the legislature, and probably by the judiciary of the State. That if force should be resorted to by the Government to quell that resistance, it would produce a civil war; and in that event, he had no doubt the leaders of the party would secure the co-operation of Great Britain. That their object was, and had been for several years, a dissolution of the Union, and the establishment of a separate confederacy, he knew from unequivocal evidence, though not provable in a court of law. That in case of a civil war, the aid of Great Britain to effect that purpose would be as surely resorted to, as it would be indispensably necessary to the design."\* In an interview of the same character, and for the same purpose, held with the President, this distinguished statesman informed him "That a secret agent of Great Britain was then in New England, by whose intrigues every aid would be proffered by that Government to carry a project into execution, which would at once render the restrictions on the commerce between the United States and Great Britain nugatory, and all future opposition unavailing."† Adams, in all probability, likewise informed Jefferson that a severance from the Union was already concluded, and the plan digested, if the restrictions upon commerce were persisted in.‡

In consideration of the existing danger to the Union, and the determination of the Federalists, a disposition  
1809. on the part of the President and cabinet was manifested in the early part of the year, to remove the commercial restrictions that were not only occasioning such dissatisfaction, but actually impoverishing the country.

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\* Hild. Hist. of the U. S., second series, vol. iii. p. 118.

† Tucker's Life of Jefferson, vol. ii. p. 286.

‡ Ibid.; National Intelligencer, Oct. 22, 1828; Niles's Register, vol. xxv. p. 138.

At one time it appears that the President not only held the opposition to the embargo in supreme contempt, but that its opponents themselves had abandoned all hope of resistance.\* At a later day, however, he ascribed the repeal of the embargo to the Federalists, who, in his own language, "believed in the alternative of repeal or civil war, and produced the fatal measure of repeal." This was Jefferson's opinion, written from the shades of his classic mountain-home after the embargo had been repealed and he himself having retired from the turmoil, the excitement, and the cares of the Chief Magistracy; and strange it is that he clung with such tenacious fondness to a scheme he was forced to abandon, rather than face the horrid storm of civil war.†

Congress at this time again became the theatre of angry and stormy debates in reference to an increase of the army and navy, for which large appropriations were asked. Joseph Story (who sat but a short time in Congress, and afterwards became the most brilliant, learned, and accomplished jurist that ever graced the American courts,) urgently advocated a large appropriation for the navy; the Democrats of the Middle and Southern States opposed bitterly the proposition of Story, it being insisted that if we build ships they would fall into the hands of the enemy. It was during this debate, with a view to obtain an immediate and decided expression from Congress, either for a continuance of the embargo or war, that Nicholas introduced, as a substitute for the embargo, the issuing of letters of marque and reprisal against all nations violating our maritime rights. Various propositions were offered and discussed as substitutes for the resolutions of Nicholas, among them was one by Bacon, proposing only to have our merchant-vessels well armed. It was during this debate that a division was called for and obtained on the resolution offered by Nicholas. The first vote was on the repeal of the embargo. The Administration, it was known, had retreated from its former position, and preferred the 1st of June upon which the embargo should terminate; this was voted down by 73 to 40. An effort was then made for indefinite postponement, which was lost by a vote of 26 to 93. When, finally, the 15th day of March was agreed upon

Feb. 1809.

Feb. 2,  
1809.

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\* Jefferson's Works, vol. iv. p. 123.

† Ibid., vol. iv. p. 148, Letter to Dearborn, July 16, 1810.



for the expiration of the embargo, to all nations except France and Great Britain, by a vote of 81 to 40.

Feb. 27. The interdiction of all commercial intercourse with France and Great Britain has been historically known as the *Non-intercourse Law*, which was, however, limited in its operations to the end of the next Congress. The provisions of this act were such as to render it nearly nugatory, many supposing it to be thus imperfectly adjusted to favor negotiations which were going on with the British Minister.\*

March 1. No other proceedings of importance occurred at this session of Congress, except the act creating the new Territory of Illinois, which then embraced the present States of Illinois and Wisconsin, with a population of about ten thousand.

On the 3d day of March, 1809, ended the labors of the Tenth Congress, and with it terminated the administration of Thomas Jefferson.

As the reader approaches the close of this Administration, he is not only forcibly struck with the total dissimilarity to those that preceded it, with its decided influence upon the tone and character of the Government, but the deep and lasting impression it made upon the public mind. In the days of Washington, party spirit, slowly but gradually developing, had in the declining days of the elder Adams assumed a most violent type; but it was the last raging fever of Federalism, which was finally allayed by the election of Jefferson. The most decided feature of the administration of this man was the permanent establishment of the States-right school of politics; and whilst Jefferson was not entirely consistent in this respect, yet to him and the supporters of his Administration belong the credit of placing the States-right doctrine upon its impregnable foundation. As a natural effect, from the success of the principles of the States-right party resulted the progressive and increasing popularity of the Democratic school.

The Administration that preceded Jefferson's was not only weak, but shaken by those violent storms of passion which had driven the Ship of State far from the true republican track; the Constitution still hung in the political firmament,

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\* Tucker's *Life of Jefferson*, vol. ii. p. 287; *Stat. Man.*, vol. i. p. 263; *Hild. Hist. of the United States*, second series, vol. iii. p. 137; *Bradford's History of the Federal Government*, chapter vii.

as the unfailing star of our national safety; but dimly was its light to be seen when John Adams left the Presidential chair and Jefferson assumed the helm, on whom rested the duty of protecting us from the storm that raged without, and steering back to the shores of the Constitution.

The Government was also to be re-established in the favor of the mass of the people, without which no Government at this day can stand. The first great necessity of this Administration was to purify,—to purify the Federal bench, to purify the republican court, from which as from a common centre was to spread throughout the land those fundamental principles of our Government with an influence that would reach the mansion of the rich, the humble cottage of the poor, the learned student in his cloistered cell, and the hardy ploughman in his fields. This Administration forms a great and eventful drama, running through eight years of our constitutional history, the greatest and best act of which was the acquisition of Louisiana, which in all probability saved a dismemberment of our Union by opening the navigation of the Mississippi, and brought under the mild rule of our republican Government an extensive territory where unborn millions are yet to rejoice in the light of freedom.

The erroneous impression of Jefferson, that it was unconstitutional, is a notable exception to his strict construction tenets, and one of the rare instances in which Jefferson individually rose equal to the emergency; yet the occasion demanded it, and it ought to have been done; and not only was the brightest precedent established, (that of acquiring territory by treaty,) but its propriety is sustained by the strictest constitutional construction.

The great and consummate error of this Administration was the embargo, the folly of which was accumulative by the tenacity with which it was adhered to and pressed upon the country by the President and his party, until forced to yield by the exhausted patience of a suffering community. With this exception, the domestic administration of the Government was tranquil and popular. Impartial history must also add the additional slur upon the intelligence of the President, his consistent hostility to the navy; and almost an isolated case of consistency does it form in the history of Jefferson.

In reference to our foreign relations many difficulties beset us, growing chiefly out of the belligerent state of European affairs. Most of the difficulties with the nations abroad, had

been transmitted by the preceding Administration. Peace seemed the great ruling passion and idol of Thomas Jefferson. The cultivation of friendly relations with all mankind should be the highest aim of the Government, but never at the expense of that just and powerful spirit of resentment which is requisite to maintain the honor and dignity of a nation; for it must be remembered the road to national greatness is won and maintained by high dignity of character and daring chivalry. It was, nevertheless, a high and statesman-like philosophy that led the Executive to dread the devastating shock of war, and look with burning anxiety to the development of the mighty resources of this country, which could not be done, save under the smiling beams of peace.

The difficulties with France and Spain, which Adams ought to have settled, were left to accumulate on the hands of Jefferson, which he not only suffered to remain unadjusted, but to which were added the increasing difficulties with Great Britain. It must be admitted that our diplomatic relations with England were not only most unskillfully conducted, but that an inevitable war was postponed but for a while, by a bungling diplomacy and unjust legislation, not less injurious in either its immediate or ultimate effects than was the war which in a few more years was spread over the land.

Jefferson's administration, though in some particulars exceedingly objectionable, resulted in much good, and worked a lasting advantage to the country. Jefferson himself may be very properly esteemed a representative man, one who gave tone and character to the period in which he presided over the nation with an influence that long survived him; and as strange as it may appear, the political tone which Jefferson imparted to the Government and to the people, was purer by far and much more elevated than the source from which this mighty personal influence arose. It cannot be denied that Jefferson obtained a personal popularity and political influence unparalleled in the United States. He was wafted to the zenith of his popularity by that powerful storm which prostrated the Federal party, the mighty agency of which, besides the strong States-right current which was rapidly coming over the minds of the people, was the belief, which Jefferson wickedly implanted and as wickedly sustained, that the Federal party were manœuvring to introduce a monarchy modeled on the forms of the British Government; that they were in alliance with it, if not already subjected to its influ-

ence. Doubtlessly it was to give full effect to this scheme that he relinquished the most important post in the cabinet and retired to the shades of private life, and the cultivation of "peas and philosophy" amidst the sunny slopes of Monticello. And it was necessary he should retire from the cabinet, or be overwhelmed in his own slanderous schemes.

In order to gain the political influence at which he was aiming, it was necessary that he should convince the people that the Government was wrong in its conduct towards France, and *e converso* France was right in her treatment towards the United States; and whilst he accused Washington of having "truckled servilely to England," the candid reader must admit that whilst there is no evidence of such a charge being true towards Washington, there is strong grounds of applying it to Jefferson in reference to France, especially as he is not free from the truthfulness of the charge that linked him in intimacy with the Democratic societies which at that day were under the patronage of citizen Genet,\* a warm supporter of whom was Freneau, translating clerk in the Department of State, who was the foul-mouthed slanderer of Washington, but towards whom Jefferson was exceedingly kind, and would not procure his removal from office, because "his paper has saved the Constitution, which was galloping fast into monarchy, and has been checked by no one means so powerfully as by that paper."†

In pursuing the truthful path of history, I am not only compelled to record Jefferson as one of the most inconsistent of men, but the living impersonation of deceit and slander. He was among the last to give up the longing desire of a restoration of the colonial connection with Great Britain; and the man who styled Hamilton and Washington monocrats, declared "that there is not in the British empire a man who more cordially loves a union with Great Britain than I do;" and this whilst he was a member of Congress, and as late as 1775.‡ He was first violently opposed to the Constitution, and then in favor of four States holding off or refusing their ratification. He advocated the assumption by the General Government of the debts of the States, and afterwards be-

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\* Lee's Remarks upon the Writings of Jefferson, Letter second.

† Jefferson's Works, vol. iv. p. 485, under the title of *Ana*.

‡ Jefferson's Works, vol. i. p. 152, Letter to John Randolph, dated November 29, 1775.



came bitterly opposed to it, accusing Hamilton of tricking him into a scheme, the like of which he had recommended whilst Governor of Virginia.\* He opposed the United States Bank and the establishment of branch banks, but approved and signed the bill creating the Branch Bank of the United States at New Orleans. He was the author of the ordinance of 1787; yet in reference to the Missouri restriction, he thought slavery ought to be extended on grounds of policy.† He abused the excise law as “an infernal one,” and whilst he admitted its constitutionality, he thought it a vice in the Constitution itself; but it will be remembered that he was the father of the embargo.‡ He approved the Cumberland Road Bill, which was a large appropriation for an internal improvement; yet he considered and made opposition to internal improvements one of his fundamental principles. He first advocated and then condemned a protective tariff. He was a strict constructionist, but he acknowledged, and gave it as his opinion, that he overleaped the bounds of the Constitution in negotiating for Louisiana. He was the embodiment of the State-rights doctrine, and even carried it to the extent of the bitterest recrimination against Washington, for sending an army to suppress the “whisky insurrection,” and to extinguish the open defiance of the laws of the Government, which raged in western Pennsylvania, to the extent of an avowed opposition to the executive, legislative, and judiciary of the United States.§

When informed of the opposition of the New England people to the embargo, he could then see and pronounce it treason.

I have said that it was a part of the mission of Jefferson to purify the Federal Judiciary, which he did; yet it is a melancholy reflection that in the trial of Burr, Jefferson acted in reference to it and towards the bench, in a manner not to be justified by his warmest admirer.

That it was incumbent on the President to arrest Burr and have him tried none will deny; that he was guilty of some heinous offence is beyond dispute; but, after the criminal was arrested and before the bar of justice to await that impartial

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\* Lee's Remarks on the Writings of Jefferson, p. 76.

† Letter to Holmes, Jefferson's Works, vol. iv. p. 323.

‡ Letter to Madison, Jefferson's Works, vol. iii. p. 307.

§ Marshall's Life of Washington, vol. v. pp. 286 to 293, and 575 to 590; Ramsey's History of the United States, vol. iii. p. 74.

trial, to which all are entitled, it was beneath the dignity of the Executive, whither resided the right to appeal and the right to pardon, to mingle as a partisan in a trial at law, and assume even the livery of a prosecutor.\*

In vain had we escaped the thralldom of England, worse than useless the great revolutionary struggle, if an American President, pending a trial for high treason, could closet himself with witnesses, give way to the rankest intemperance, suggest the arrest of counsel employed in the defence, as *particeps criminis*; and whilst even it might fail, it would have the effect "of putting down this unprincipled and impudent Federal bull-dog."†

This must always be regarded as a dangerous and impure manifestation of ungovernable temper on the part of Jefferson, at which the judicial atrocities of the days of the Tudors and Stuarts may blush.

The *inconsistency* of a statesman, when applied in the common interpretation of the word, is not only often excusable, but frequently right. In all ages, in every country, policy and measures are not only the result of experience, but the rapid changes which are daily occurring will require measures at one time which might be dangerous at another; the diseases of the body politic, like those of the human system, are changeable, the very symptoms even variable, and the policy of the statesman, like that of the physician, may often be judiciously and properly adjusted to the different conditions of the patient.

But this was not the variableness of Jefferson; his immediate expression of opinions, his constant avowal of principles, were too little in unison with his public acts to be excused or palliated in the man, whatever may have been the brilliant results of his public career.

In pursuing still further the character of Jefferson as a public man, and only as such do I allude to him, it is the more painful to find that he was exceedingly deceitful in his intercourse with the public men of his day, often convicting him of slandering those to whom he professed admiration and attachment, or of heartless and insincere flattery. The reader, upon a full examination of the very voluminous cor-

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\* Jefferson's Works, vol. iv. pp. 75 to 103, embracing the correspondence with the District-Attorney.

† The allusion is to Luther Martin, one of Burr's counsel.

respondence of Jefferson, may be surprised but convinced of the truth in this particular.

We find him at one time the warm admirer and professed friend of Washington, to whom he unbosoms himself with a most abundant show of esteem and regard.\* At the same time James Madison had in his possession the written evidence of abuse and want of confidence in the President, a copy of which was carefully preserved by Jefferson.† No doubt exists that Jefferson's honest opinion was, that Washington was an upright, able, and efficient statesman and patriot; this is apparent from many passages in his works. Yet it is evidently as apparent that he used the weapon of defamation without restraint, which all must believe was done in the first instance to render the administration of Washington unpopular; and when, in the second place, we find it continued even to the death of Washington, that it was solely the outpouring of a malevolent temper.‡ In the daylight, his was the open voice of friendship; in the darkness of the night, it was the low and stealthy whisper of enmity and slander. In the cabinet, one of the pillars of the administration of Washington; but from the heights of his "little Olympus," he endeavored to scatter the poison that he hoped would undermine his Administration. He united with the cabinet in the endeavor to put down the "Democratic societies," which Genet had been instrumental in establishing, and which deserved universal odium; yet he thought the denunciation of the *Democratic societies* "one of the extraordinary acts of boldness of which we have seen so many from the faction of monocrats. It is wonderful, indeed, that the President should have permitted himself to be the organ of such an attack on the freedom of discussion, the freedom of writing, printing, and publishing."§

The reader will remember the offensive character these societies assumed to our Government, and the treatment Genet received, who was the chief instigator of all their disorder and public disturbance, and which so justly excited the indignation not only of the President, but a large part of the community.

\* Jefferson's Works, vol. iii. p. 330, Letter to the President, June 19, 1796.

† Jefferson's Works, vol. iii. p. 307, Letter to Madison, Dec. 23, 1794.

‡ Ibid., vol. iii. pp. 14, 15, 17, 19, 23, 27, 28, 35, 37, 49, 53, 57, 58, 307; vol. iv. pp. 184-5, Letter to Melish; vol. iii. p. 393, Letter to Colonel Taylor; vol. iv. p. 234, Letter to Dr. Jones.

§ Jefferson's Works, vol. iii. p. 307.

The same spirit of duplicity is exhibited towards the well-known and venerable society of the Cincinnati, the object of which was a friendly affiliation of the war-worn officers of the Revolution, with Washington as their President. It is well known that he prepared the article on the "Cincinnati," for Meusnier, the author of that part of the *Encyclopédie Méthodique* entitled *Economie Politique et Diplomatique*,\* which he afterwards corrected, under the inspection of La Fayette and Colonel Humphreys, and which he sent to General Washington.† In this paper he not only spoke in the most favorable, respectful, and affectionate manner, but corrected the views Meusnier had inserted, because it contained a philippic against the society.

The reader will be surprised to learn, after this, that the most violent philippic ever published against this society was from the pen of Jefferson himself.‡ If the history which he took so much pains to correct (which he had prepared whilst in Paris for Meusnier) be true, the reader can form but one opinion in reference to a totally dissimilar one furnished to Madison.

Upon a further inspection into the deceitful character of Jefferson, we find it manifested to a most disgusting extent for mere selfish ends towards the unfortunate Burr, who, it will be remembered, was his competitor for the Presidency, in reference to whom he says,—“I had never seen Colonel Burr, until he came as a member to the Senate. His conduct very soon inspired me with distrust; I habitually cautioned Madison against trusting him too much; I saw afterwards, that under General Washington’s and Mr. Adams’s administrations, whenever a great military appointment or a diplomatic one was to be made, he came post to Philadelphia to show himself; and, in fact, he was always at market if they had wanted him. He was, indeed, told by Dayton in 1800, that he might be Secretary at War; but this bid was too late; his election as Vice-President was then foreseen. With these impressions of Colonel Burr, there never had been any intimacy between us, and but little association.”§

These, it will be seen, were the long standing opinions of Jefferson, running back to Washington’s first administration.

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\* Jefferson’s Works, vol. i. p. 398.

† Ibid., vol. ii. p. 62.

‡ Ibid., vol. iii. p. 307, Letter to Madison.

§ Ibid., vol. iv. p. 520, January 26, 1804.



With what honesty of purpose, then, could he write to this man on the 17th of June, 1807,—“Perhaps, however, some general view of our situation and prospects since you left us, may not be unacceptable; at any rate, it will give me an opportunity of recalling myself to your memory, and of evidencing my esteem for you;”\* in which letter, after his usual indulgence of taunts against the Administration, he has the boldness to style himself “With *great and sincere esteem*, dear sir, your friend and servant.”

But at another time, when Jefferson thought that he had been elected President and Burr Vice-President, whilst he congratulates him on the issue of the contest, he feels the loss sustained in his aid of the new Administration; and evidently alluding to his desire to have placed him in the cabinet, he says,—“I had endeavored to compose an Administration whose talents, *integrity*, names, and *disposition*, should at once inspire unbounded public confidence, and insure a perfect harmony in the conduct of the public business. I lose you from the list, and I am not sure of all the others.”†

At a later date, when it appears a letter was received by Judge Breckenridge from Jefferson, reflecting severely upon Burr, he wrote to him again, that it was a forgery, if it contained anything unfriendly or disrespectful; sending him at the same time a *press copy*, leaving the question of veracity to be decided between it and those who saw the letter.‡

This was the man against whom he habitually cautioned Madison, and of whom he said in 1807,—“Against Burr personally, I never had one hostile sentiment. I never, indeed, thought him an honest, frank-dealing man, but considered him as a crooked gun or other perverted machine, whose aim or shot you could never be sure of.”§

Notwithstanding the blemishes so apparent on the character of Jefferson, he has been justly esteemed in some respects a good man, as well as a patriot, and one whose political career was not only remarkable for its decided influence upon the

\* Jefferson's Works, vol. iii. p. 536. (Whilst Jefferson was Vice-President.)

† Ibid., vol. iii. p. 445, Letter to Burr, December 15, 1800.

‡ Ibid., vol. iii. p. 449.

§ Ibid., vol. iv. p. 74, Letter to Giles. See also Lee's Remarks on the Writings of Jefferson; see Jefferson's Letter to Mazzei, vol. iii. p. 327, highly abusive of the different branches of the Government, and his futile attempt to explain it in his Letter to Madison, vol. iii. p. 362; Letter to Martin Van Buren, 29th of June, 1824, and the remarks of Lee on the Writings of Jefferson, p. 91.

Government, but stamping the age in which he lived with the deep and lasting impress of the principles of human liberty and human rights, with which his own mind was so strongly imbued.

He retired from office with the warmest applause of a large majority of his fellow-citizens, many of whom were desirous that he should serve another term, but he could not be induced to violate the precedent which had been set by Washington, and he voluntarily retired to the shades and quiet of his mountain-home, devoting his time alternately to the pursuits of philosophy and the cultivation of his farm.\*

There existed a wide difference between the administrations of Washington and Jefferson; the one was conducted with reference to the firm establishment of the Federal Government which was to receive vigor and efficiency in contradistinction to the weak and inefficient Articles of Confederation, the deficiencies of which were to be supplied by the Constitution. It was necessary that the Government should be administered with sufficient force in its beginning, to give it that dignity and character which would satisfy the public mind that it possessed a self-sustaining power. There were many conflicts between the General and State governments, and the great difficulty in the first stages of its operation, was to define the proper limits to each. The State governments were each jealous of their own prerogatives, and evinced a strong tendency to encroach on the Federal domain. The same tendency would always be suspected (as has always been the case with the General Government) towards the State governments. Washington, placed at the head of the first administration, could not have sustained the Constitution had he yielded to the clamors against it; it was inevitable that he should maintain the Federal doctrine.

It will be easily perceived, however, that the tendency to increase the exercise of power, which is almost inseparable from the nature of the Government, was early manifested under the operations of the Constitution. It was the imperi-

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\* He received addresses from the legislatures of Vermont, New Jersey, Pennsylvania, Maryland, Georgia, the House of Delegates of Virginia, and the Senate of New York, to serve a third term; and from the legislature of Virginia he received a flattering and complimentary address "for the model of an Administration conducted on the purest principles of republicanism." The paper was drawn up by Wirt, and passed the House of Delegates by a vote of 116 to 24.

ous necessity for proper checks and balances that called into existence the States-right doctrine, and this accretive tendency to power in the Government has sustained it ever since. There is no inconsistency in bestowing a just and due praise upon the administration of Washington, under the circumstances that surrounded him and the exigencies that beset the Government, when first the Ship of State was launched, and at the same time bestowing a like due approval of that policy which afterwards regulated its machinery, tempered the force that first wafted it from shore, and controlled that immense motive power by a scale which the hand of experience had defined.

If the principles of the Federal party had continued to be administered, it must be apparent that the rights of the States would soon have been destroyed; and instead of the Federal Government working in unison with those of the States, instead of each moving harmoniously with the other in its respective orbit, a powerful and consolidated empire would be wielding its massive agency in the place of the present well-defined and restricted forms of Federal and State governments. Jefferson's policy was formed more in accordance with the current of popular opinion than Washington's; he placed more confidence in men, more reliance in their capacity for government, as well as in their common integrity. It was in exact accordance with those enlarged ideas of human rights and human liberty, which had signalized his public career, and forms the most conspicuous feature among his political sentiments. It cannot be denied that danger lurks in such policy. Every Government must possess a principle of energy and coercion, a self-sustaining power, else it is liable to be prostrated by the first outbreak of popular feeling. In a republic, where the Government rests entirely on popular opinion, the greater is the danger of sudden downfall and destruction; a slight cause more easily affects the people; the minds of the citizens of a republic are more inflammable than those of a monarchy, especially from slight causes. It should always be remembered by those who seek the favor of the masses that they are playing upon the strongest passion of the mind, the excitement of self-interest; that man has always been prone to think himself oppressed by Government, and ever ready to raise his arm against the authority that is over him; and in a Government like that of the United States, where political power is directly wielded by the peo-

ple, it is always dangerous to the Constitution to be constantly diminishing its authority by yielding to popular prejudice and clamor.

The political sentiments of Jefferson were certainly tinged with an inclination to flattery of the populace, with a tendency to place an over-confidence in the acts and opinions of the masses. Yet with himself, it cannot be said that he yielded to the influence his own doctrine so naturally suggested. History will show that he more frequently originated and directed public opinion than yielded to its popular current or courted its influence.



## CHAPTER VII.

## THE ADMINISTRATION OF JAMES MADISON.

JAMES MADISON was born in the County of Orange, on the 16th of March, 1751. His family were of Welsh descent, and early emigrants to Virginia. The subject of this sketch graduated at Princeton in 1771. He was a close student, which somewhat impaired his constitution, enfeebling his health for many years. After completing his collegiate course, he remained at Princeton a year, pursuing his studies under the venerable Dr. Witherspoon. After returning to Virginia he commenced the practice of the law. His talents were soon appreciated by the community in which he resided; the solicitations of his friends soon enticed him from the walks of private life; the high order of intellect, which had been adorned by a polished education, designated him as one eminently suited to occupy an influential station upon the political theatre. He was elected to the General Assembly of Virginia in 1776, and in 1778 he was appointed to the Executive Council.

In 1779 he was sent a delegate to the Continental Congress, in which body he was an active and leading member until 1784.

In 1786, the legislature of his native State appointed him one of her delegates to a convention from the several States, which was to meet at Annapolis the ensuing September, to devise a uniform system of commercial regulations, which, when ratified, were to be binding on the Confederacy. This convention resulted in no important good; only five States were represented, and the body adjourned without recommending any decisive action, except that a convention of delegates of all the States be held at Philadelphia in May, 1787, to take into consideration the condition of the States, to devise such further provisions as should appear to them necessary to render the Constitution

of the Federal Government adequate to the exigencies of the Union.

This was the Convention that framed the Constitution of the United States. It has been previously stated that Madison ranked as one of the very first in this body of intellectual giants. He was one of the leading debaters, and preserved quite a copious body of notes, which have recently been given to the world.

In the Convention he is known to have advocated a strong national government, and generally to have coincided with Washington and those of his friends who were in favor of such form of government.\*

After the Constitution had passed the ordeal of the Convention, and was submitted to the people of the States, Madison was elected a member of the Virginia Convention, which had been called to take the Constitution into consideration.

In this body, where sat a large number of the ablest men of Virginia, when her statesmen were equal to any the world ever knew, Madison stood foremost among the first.

The Constitution was adopted by a vote of 89 to 79, by this Convention. With Madison were found Marshall, Pendleton, Wythe, and Edmund Randolph; whilst Patrick Henry, Monroe, Grayson, and George Mason were his ablest opponents.

The ratification of the Constitution was considered a triumph by the Federal party. The anti-Federalists held the majority in the legislature, and Madison was defeated when the election came on for United States Senators, Grayson and R. H. Lee being the successful candidates. No man at that day had contributed more towards the framing as well as the ratification of the Constitution than Madison. The larger part of those elegant essays, known as the "*Federalist*," was the product of his pen; and the result of the vote in the Virginia Convention is justly attributed, in a large degree, to his talent and exhaustless energy. To this cause is to be attributed his defeat for the Senate.

He was, however, elected a member of the House of Representatives, and took his seat in Congress in April, 1789. Here he bore an active and distinguished part in adopting the measures necessary for the organization of the Government. He

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\* Stat. Man., vol. i. p. 268. See North American Review, vol. xxv., containing a document from the pen of Washington, exhibiting a summary of Madison's opinions on the form of a constitution to be adopted.

served in Congress during the entire administration of Washington. The measures of this period have been previously treated of. Madison was opposed to the leading features of the Administration, especially the funding system and the national bank. He took sides with Jefferson, who was then Secretary of State, in opposition to Hamilton, who was the most influential member of the cabinet.

It will be seen that Madison was defeated by the anti-Federal party for the Senate; that he was one of the first of the Federal school, a coadjutor of Hamilton and Jay, in urging the adoption of the Constitution, though he never went to the extremes of Hamilton; yet as soon almost as he was elected to the House of Representatives, he is allied with the anti-Federal party, and becomes their leader in Congress during Washington's term of service.

In January, 1794, Madison introduced his commercial resolutions; they were based on a report which Jefferson had made, as Secretary of State, on the subject of our foreign relations, and as a manuscript copy was found among the papers of Jefferson, they were probably prepared with his concurrence. They reflected accurately the sentiments of the Secretary of State in reference to his hostility towards England, as well as his partiality for France.

The substance of the first resolution was, that the interest of the United States would be promoted by further restrictions and higher duties in certain cases, on the manufacture and navigation of foreign nations. The additional duties were to be laid on certain articles manufactured by those European nations which had no commercial treaties with the United States. These resolutions required reciprocity in navigation, except with respect to the West India trade. The last of the resolutions declared that provision ought to be made for ascertaining the losses sustained by American citizens, from the operation of particular regulations of any country contravening the law of nations; and that these losses be reimbursed, in the first instance, out of the additional duties on the manufactures and vessels of nations establishing such regulations.

A long and animated debate ensued on these resolutions. On the 3d of February the first was adopted by a majority of five only.\*

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\* Pitkin. *Lives of the Presidents*, by Lincoln, p. 139

Madison continued to act with the anti-Federal party during his political life, which ultimately assumed the name of Democratic party. He seems to have co-operated with Jefferson with great unanimity, and during their long service and protracted lives, the warmest friendship and confidence always existed between them. Madison retired from Congress in 1797. He was a strong and decided opponent of the administration of John Adams. When party feeling reached its utmost violence in reference to the Alien and Sedition Laws, Madison, with a view of opposing the Administration, but at the same time wishing to conciliate the State within the limits of a constitutional opposition, accepted a seat in the Virginia Legislature. In 1798 he drew the celebrated report on the Alien and Sedition Laws, which concluded with a series of resolutions against them. After retiring from the legislature of Virginia, for a very short time, he was, on the election of Jefferson, appointed Secretary of State, where he remained during his Administration.

Madison, in personal appearance, was rather small, and somewhat inclined to corpulency; slow, solemn, and deliberate in speech; a blue, penetrating eye, though a calm and quiet expression; his manner modest, gentle, and retiring, whilst his cultivated mind rendered him a pleasing and instructive companion. By constant care and much practice he became not only an elegant but a formidable debater. He was likewise an exceedingly popular and polished writer, his style being surpassed by few American statesmen of his day.

The leading position he occupied in framing the Constitution, and the clear and forcible contributions of his pen, in behalf of that instrument, won for him the lasting and endearing title of "Father of the Constitution," as had the patriotism, the trials, and wisdom of Washington, intertwined around his name the fadeless appellation of "Father of his Country."

Madison, who had embraced the Democratic doctrine, and was looked to by the country as the proper successor of Jefferson, was elected to the Presidency by a vote of 122 out of 175 electoral votes, George Clinton receiving 113 for Vice-President.

The three rival candidates were Madison, Monroe, and Clinton. Much bitterness had been engendered during the contest, by Clinton's competing for the Presidency; threats were afloat of substituting another candidate for the Vice-



Presidency. This offended the friends of Clinton, who went to the extent of making overtures to the Federalists, which, however, after some consideration was declined.\* The Federalists, determining to maintain their position, voted for their candidates, C. C. Pinckney and Rufus King. The Federal vote in this election amounted only to 47.

On the 4th of March, 1809, Madison was inaugurated President of the United States; the oath of office was administered by Chief-Justice Marshall. The first business that engaged his attention was the selection of his cabinet, which consisted of Robert Smith, of Maryland, Secretary of State; William Eustis, of Massachusetts, Secretary of War; Paul Hamilton, of South Carolina, Secretary of the Navy. Gallatin, who had been so long in the cabinet, was retained as Secretary of the Treasury, and Cæsar A. Rodney, of Delaware, reappointed Attorney-General. When the President approached the Executive chair, he found our own country not only full of difficulties, but the condition of Europe without a parallel in the history of the world, which, indeed, had affected the relations which we bore with the leading foreign powers to so alarming an extent. The relations between the United States and England, as well as with France and Spain, were unsettled.

Madison, it was supposed, was not so imbued with hatred to England as was his predecessor, which elated the hopes of the country that some arrangement might be made to adjust the difficulties that existed; he was anxious for an amicable adjustment of our English difficulties, but sufficiently firm and resolute to defend the interest and honor of his country. The critical state of our foreign affairs occasioned the Eleventh Congress to convene at an early day after the inauguration of the President; war was apprehended either with England or France.

The late elections to Congress had sustained the Democratic majority; Joseph B. Varnum was elected Speaker. This session of Congress lasted but a short time, adjourning on the 22d of June, having done but little.

The last Congress had substituted in place of the embargo, the Non-intercourse Act with Great Britain and France; this was continued with some slight modifications.

Very soon after Madison's administration commenced, an

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\* Hild. Hist., second series, vol. iii. p. 94.

effort was made on the part of Erskine, the British Minister at Washington, towards adjusting the difficulties between his Government and the United States. He had received from Canning, the English Secretary of State, powers to treat, embracing instructions as to the points to be insisted on. The orders in council were to be withdrawn on condition that the prohibition against English ships appearing in the American waters should be repealed, and an abandonment of the right claimed by the United States to trade with such of the enemies' Colonies as she was not permitted to trade with in times of peace. These conditions were disregarded by Erskine; he considered the suspension of the Non-intercourse Law as a fair equivalent for that of the orders in council, and unhesitatingly stipulated that they should not be in force after the 10th day of June. The President forthwith suspended the Non-intercourse Act.\*

As soon as Erskine communicated with his Government, he was informed by Canning that he had transcended the instructions given to him and that his stipulations would not be received. The English Minister acknowledged that he had transcended his authority, urging as his reason for doing so, the great anxiety to accomplish the object which his Majesty had in view, which no doubt was the settlement of all existing difficulties.

It was unfortunate that such blunders in the diplomacy of Erskine should have occurred. It had a great tendency to influence the minds of the American people, believing that Erskine had acted in obedience to his instructions, and that it was the capriciousness of Canning that induced the disavowal; and though afterwards proved to be untrue, the parliamentary opposition embraced at the time the same belief.

The immediate consequence was the proclamation of the President, renewing the operation of the Non-intercourse Law and the recall of Erskine. The first special session of the Eleventh Congress had adjourned with brighter hopes of a restoration of harmony with the European powers, when suddenly the news spread over the land of the disavowal of all the stipulations of Erskine.

But little was done at this extra session; the most important act was the dispensing with the provisions of the embargo,

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\* American State Papers, vol. vii. p. 213; Lincoln's Lives of the Presidents, p. 143.

and also the removal of the restrictions upon foreign armed vessels, with a provision legalizing the trade with Great Britain, under the proclamation of the President; but at the same time continuing the non-importation system.

Though this act, which was somewhat complicated, passed with considerable unanimity, there was some objection to the admission of French ships-of-war, it being considered a concession to France contrary to the understanding with the English Minister; this objection continued but a short time, as the arrangement with Erskine was soon broken up.

It was, however, considered a plausible advance to the French Government; and it was strange that it was so, for it was at that period that Turreau, the French Minister, addressed our Secretary of State very rudely, with severe reflections upon our Government in reference to the Erskine arrangement, with accusations of partiality to Great Britain, with complaints against the American press for the manner in which they had reflected upon Bonaparte, and asserting that the Emperor would not renew the convention of Commerce, which would soon expire, until these grievances were redressed.\*

During the debate at this session of Congress on the Non-intercourse Bill, Livermore introduced a resolution to allow commercial intercourse with Hayti. The island was considered a dependency of France, but the French part of it had in reality been independent for a long time. Since the death of Dessalines, the French Colony of St. Domingo had been divided into two different States or departments; Cape Haytien under Christopher, with a government of blacks, and Port-au-Prince under Petion, with a government of mulattoes. The Spanish part had revolted, though formerly acknowledging allegiance to the French authority; the City of St. Domingo being held under garrison by Ferrand.

The proposition of Livermore was fiercely assailed by John Randolph and Macon, as tending to disturb the institution of slavery in the Southern States; the resolution was finally put to a vote of the House, when it received but one vote; that of the distinguished mover. It appears to have been a frivolous and groundless opposition, for in a few months the prohibitory enactments expired and commercial intercourse

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\* Hild. Hist., second series, vol. iii. p. 181.

with Hayti was renewed, and has been carried on ever since.\* Notwithstanding the thick and dark cloud overshadowing our political relations with England, which every effort at negotiation seemed to render thicker and darker, the two countries, it would appear, were anxious to restore harmony by the renewal of diplomatic intercourse and continued effort at negotiation.

It is not to be supposed that the English Government desired to provoke a war with the United States; and whilst her course was entirely unjustifiable towards us, her condition then, surrounded with dangers and difficulties on every side, struggling for existence against the unrivaled power of a most desperate foe, it was natural for her to resort to the most extreme measures of defence. It was at France these injuries were directed, though the indirect blow to the United States was beyond the power of endurance. The duplicity and unfair dealing on the part of the British Government towards us in disavowing the acts of its accredited Minister, Erskine, who, whilst he acknowledges to Canning that he had transcended his authority, endeavors to prove to our own Secretary of State, that he had fairly represented the British Government, do not admit of explanation. This state of our affairs caused the President to issue another proclamation, reviving the Non-intercourse Act.† The English Government, after the recall of Erskine, sent to this country a  
1809.  
gentleman of extensive diplomatic skill and experience, named Jackson, who reached the seat of Government towards the latter part of the year.

In obedience to instructions, he refused to state the reasons for the disavowal of the three propositions, which had been assented to, by Canning, but was willing to enter into negotiations for the restoration of amicable relations between the United States and Great Britain. The three conditions, on which were based a project for a treaty, were—

1st. The repealing as to Great Britain, but keeping in force as to France and all countries adopting her decrees, as long as those decrees were continued, all existing non-importation and non-intercourse acts, and acts excluding foreign ships-of-war.

2d. The renunciation by the United States, during the pre-

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\* Hild. Hist. vol. iii. p. 183.

† American State Papers, vol. vii. p. 229.



sent war, of any pretensions to carry on any trade with the Colonies of the belligerents, not allowed in time of peace.

3d. To allow British ships-of-war to enforce, by capture, the American non-intercourse with France and her allies.

It was the disavowal of these conditions by the English Government that occasioned the dissatisfaction that existed towards Erskine, and was ultimately the cause of his being recalled. It is beyond comprehension, why our cabinet officer, the honorable Secretary of State, R. Smith, clung with such pertinacity to the arrangement which had been made with Canning. The conditions were of scarcely any value to us, whilst England would have obtained full and free access to our ports. The disavowal on the part of England served to exasperate and heighten the war fever in this country, and may be said to have increased it, more especially at the North, which at that day was assuming that high commercial position which but faintly indicated the career of wealth and prosperity that awaited her.

Under such a state of national feeling (from which the cabinet even was not free or able to conceal) commenced the diplomatic correspondence between Jackson and Smith.

The mission of Jackson was not of the slightest importance; he had not only become at an early day distasteful to our Government, but was utterly inefficient in his effort at negotiation. He was willing to settle the affair of the Chesapeake upon the terms proposed by Erskine, and was surprised that our Minister did not accept them; yet he acknowledges that Erskine had no authority to make such stipulations, and that the very arrangements which he then proposed were not within the limits of a Minister Plenipotentiary.\* It must, however, have been evident to Jackson, if our Government but a few months previous, having by its note in accepting

1809. the arrangement in reference to the Chesapeake, caused its disavowal by the English Government, that its renewal would lead to no successful issue. The mission of Jackson terminated by the rude and unpleasant intercourse he engendered; by the roughness of his manner and temper, which led at an early day to his recall.

The second session of the Eleventh Congress assembled on the 27th of November. Madison sent in his First Annual Message on the 29th, accompanying which were a large mass

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\* American State Papers, vol. vii. p. 277.

of papers relating to the foreign affairs of the country, which also engrossed the principal part of the Message. The President alludes to the course taken towards Jackson, the late English Minister. Giles, of Virginia, who yet occupied the position of a leader in the ranks of the Administration, was the author of the series of resolutions introduced into the Senate for the purpose of sustaining the course of the Executive. These resolutions passed the Senate without debate, and with nearly a unanimous vote. In the House of Representatives, the Federalists, with the aid of John Randolph and Nathaniel Macon, waged a powerful opposition, which was finally voted down, and the resolutions sustaining the course of the President passed by a handsome majority.

Bitter experience had now taught the country 1810.  
the failure of the existing commercial restrictions we had persisted in against England and France, which were not only useless but oppressive and ruinous to American shipping. Macon alone stood out for the embargo; but the war party in and out of Congress had begun to spread, with an increasing sense of the wrong and injury we had received from the English Government. The wealthy merchants, the large planters, indeed, all classes, had suffered severely by the embargo, which was but a substitute for the war, and had failed in every respect.

The Federal party at this time acquired some strength of position from the unpopularity of the embargo, being almost unanimously in favor of letting commerce entirely alone. The Administration party, though receding in a measure from the vigor of the old system, could not adopt the position of the Federalists.

Macon, a decided anti-war man at this time, and preferring the embargo to any other measure, rather than war, brought forward, as chairman of the Committee on Foreign Relations, what was known as the American Navigation Act, which required the French and British flags, borne either by private or public vessels, to be excluded from American harbors; and limiting the exportation of French and British goods to American ships, coming direct from the ports of production. This was the plan of Gallatin, and met the approbation of the President.

This bill passed the House on the 29th of January, by a vote of 73 to 52. The Federalists voted against it, as did those who advocated stronger measures. It encountered the

same opposition in the Senate, and by means of a fusion with the Federalists and some disaffected Democrats, was stricken from the bill every feature, except the repeal of the existing restrictive act, and the exclusion of armed belligerent vessels.

It was proposed by Smith, the Senator from Maryland, to substitute armed merchant-vessels, who, though a Democrat, expected co-operation from the Federalists, as he had acted with them against the bill from the Committee on Foreign Relations; but they unexpectedly came to the support of the Administration and voted down the proposition.

The bill, as sent back to the House, was violently opposed, especially by Macon and Eppes, who insinuated in very plain terms the existence of a coalition between the Federalists and some disaffected Democrats, for the purpose of embarrassing the Administration. Angry discussion took the place of calm consideration, which even reached the chamber of the cabinet, in the persons of the Secretary of State and Secretary of the Treasury.

With a view to unite the party, the amendments, along with the bill itself, were referred to a select committee. The Senate had proposed an amendment, by authorizing the arming of merchant-vessels, which was thought by Macon and his wing of the party, to be equivalent to a declaration of war.

The committee reported adversely to the Senate's amendment, which resulted in the appointment of a committee of conference, but which could not agree; the Senate stood out in favor of its own amendment, 17 to 15, the House adhering to its original position, 66 to 58. The bill was finally lost. It was a measure of the Administration, and though but little, if anything, would have been gained by the country, yet it was to be regretted that a section of the Democratic party should be found in concert with the Federalists of that day, whose chief aim was to embarrass the Administration.

The President was anxious to avert the calamities of war, and did everything in his power to bring about amicable relations. In connection with the act of March, 1809,

March,  
1810.

the President was authorized by another act, "in case either Great Britain or France should, before the 1st of March following, revoke her edicts or so modify them that they would cease to violate the neutral commerce of the United States, to issue a proclamation to that effect, and on the omission of the other nation to do the same thing,

the act interdicting communication with England and France, passed in 1809, should continue as to the nation refusing."

The act of Congress under which the President was authorized to proceed was soon after communicated to the French Court, in answer to which the French Minister for Foreign Affairs replied to our Minister, John Armstrong, "that the Berlin and Milan decrees were revoked," and would have no effect after the 1st of November ensuing.\* Duplicity and cunning marked the character of this communication from the Duc de Cadore to General Armstrong. The President issued his proclamation to the effect that the decrees were revoked, and that the Non-intercourse Laws would be in force as regarded Great Britain, unless her orders were revoked in three months from that day.† Subsequent events proved that the Emperor of France intended to deceive our Government, and that he had no idea of revoking the decrees, unless Great Britain should also withdraw her orders in council. Our Government was lulled for a brief period only, for after the 1st of November, instead of the promised and expected revocation of the offensive decrees, our vessels were seized and held for sequestration, whilst Napoleon boasted "that the Berlin and Milan decrees were the fundamental laws of his empire;" and a new Envoy, who reached Washington from France, gave notice to the Government that no remuneration would be made for the sequestered property.‡

Notice was sent to Armstrong by the French Ministry, that the vessels which had been taken, belonging to the United States, were to be sold. Our Minister, whose indolent habits and procrastinating disposition was at length excited, replied with much force and spirit, recapitulating the outrageous conduct of France towards our Government, and the many aggressions upon American property, and at the same time pointing out the fact, that instead of retaliation for the Non-intercourse Act, when first passed, the Emperor had waited until, under a modification of it, more than one hundred vessels had been sequestered.§ The reply of our Minister elicited but the iniquitous *Rambouillet* decree, which was alleged to be in retaliation of the American Non-intercourse

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\* Amer. Stat. Papers, vol. vii. p. 469.

† Bradford, 174; Stat. Man., vol. i. p. 344.

‡ Bradford, p. 176.

§ Amer. Stat. Papers, vol. vii.; Hild. Hist., vol. iii. p. 215.



Act, and ordered the sale of one hundred and thirty-two vessels, estimated, with their cargoes, to be worth eight millions of dollars; the proceeds of which were to be deposited in the *Caisse d'Amortissement*, or Chest of Death, as it has been translated. This remarkable and high-handed injustice made a strong impression upon the American people. Instructions were sent to Armstrong not only to require a repeal of the Berlin and Milan decrees, but satisfactory provision for the property confiscated, such provision being an indispensable evidence of the just purpose of France towards the United States.

June,  
1810.

Pinckney at this time was engaged in renewed negotiations at London, but with no better success than Armstrong at Paris; and in reference to the repeated applications on the subject of blockades, Wellesley replied that the blockade of May, 1806, had never been withdrawn, and the blockade of Venice, of July, 1807, was still in force. The British Government, though apprised of the position of Napoleon in reference to the Berlin and Milan decrees, which would have been repealed if the blockade had been removed, seemed entirely unwilling to do anything towards favoring the prospect of reconciliation towards the United States, either with herself or the French, the English diplomatic course being as unfair as that of the French, and tending equally to complicate the existing difficulties in reference to the English blockades.\*

The third session of the Eleventh Congress assembled on the 3d of December; on the 5th Madison sent in his Annual Message; allusion was made to the existing difficulties in our foreign relations, but no specific recommendations. Among the political and constitutional questions of interest which attracted the attention of Congress were, besides the renewal of the bank charter, the occupation of West Florida, and the erection of Orleans Territory into a State. Nothing of importance was effected at this time in reference to the occupation of West Florida, in consequence of the abandonment by the Executive of all intention for the present, on account of the doubtfulness of our territorial right. At this time Louisiana was applying for admission into the Union as a State. The formation of a new State out of territory not originally belong-

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\* Correspondence between Wellesley and Pinckney, Amer. Stat. Papers, vols. vii. and viii.

ing to the United States was not only novel, but of exceeding interest in its constitutional bearing, as well as its future political import. The great constitutional objection which was alleged at the time, was that new States could not be formed out of territory acquired since the adoption of the Constitution. Quincy, who had no sympathy with the Jeffersonian school of strict construction, was, nevertheless, bold and free in the use of every argument against the erection of this or any other new territory into a State. At this time, however, it is not to be disguised, that political considerations, mixed with sectional jealousy, were the strongest inducements to opposition on this question, for it was pressed exclusively by Northern members.

Quincy, who occupied a distinguished part in this debate, may properly be considered the representative of Northern feelings, when he contended that this was a violation of the Constitution, which, in its grossness and violence, would lead to a dissolution of the Union, "amicably if they might, forcibly if they must." This was the earliest indication of the doctrine of secession, which, upon its announcement, fell like an electric shock upon the Congress of the nation.

Poindexter, of Mississippi, afterwards distinguished as a Senator, but then only Territorial delegate, and feeling much interest in the argument of the distinguished member from Massachusetts, rose to a point of order, stating that no member of the House ought to be permitted to incite any portion of the people to insurrection and a dissolution of the Union.

Varnum, the Speaker, decided that Quincy was in order, no one having the right to object to the opinion that the admission of Louisiana would lead to a dissolution of the Union.\*

The Speaker, however, decided that the declaration as to the duty of certain States under a certain contingency, to separate peaceably if they could, forcibly if they must, was out of order. Quincy, however, appealed from the chair, and was sustained, with the influence of some Democratic votes, by a majority of three. Quincy then proceeded to declare, "that he had uttered the statement which had so startled the House, not for agitation, but as a warning; not from hostility to the Union, but of an earnest desire to preserve it. The clause in the Constitution authorizing the

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\* Hild. Hist. U. S., second series, vol. iii. p. 226.

admission of new States must, from the context, be understood to relate only to the formation of new States within the limits of the Union as then existing." This idea, a mere abstraction of the speaker, deserves comparatively little consideration; but he touched a chord which vibrated many thousand hearts, when he continued,—“Now-a-days there is no limit to our ambitious hopes; we were about to cross the Mississippi; the Missouri and the Red River were but roads upon which our imagination traveled to new lands and new States to be erected and admitted under a power now about to be usurped. The debates on the Federal Constitution would show that the effect of the slave representation and of the transfer power to the West, were subjects of great jealousy to some of the best patriots of the Northern and Eastern States. Had it been foreseen that besides all this, the population of a world beyond the Mississippi was to come in to change all existing proportions of political weight and influence,—to make our laws, control our actions, and decide our destiny,—would such an arrangement, such a throwing of our rights, liberties, and property into hotch-potch with the wild men on the Missouri, have been listened to for a moment?”

I shall at another time take occasion to demonstrate the narrow and mistaken policy which the Federal party at this early day manifested to an enlargement of our territorial limits; all must be now convinced that it was jealousy of that great and magnificent power which was looming up in the South and West which would divide the political power with the North.

The Territory was allowed to come in as the State of Louisiana; but the Territory of Mississippi, likewise an applicant, was postponed until another session.

The act incorporating the United States Bank would expire at this session of Congress; the bank had been originally chartered in 1791, and had become extensively connected with the internal trade of the country; the directors were applying for a renewal of the charter.

The constitutional question was still unsettled, notwithstanding the use of the institution for so many years and the authority of those who had given it their sanction. Gallatin's report, at a prior date to the application for a renewal of the charter, proposed that the bank should pay a bonus of \$1,250,000. The Secretary was himself a warm advocate of

this measure, and even with this heavy tax the directors did not hesitate to urge the charter.

The friends of this institution urged that it had taken such deep root in every kind of business, that great embarrassment must ensue if brought suddenly to close its operations. The chief reason with Gallatin was the agency it had exercised in the management of the revenue. The members from the large commercial districts urged that the greatest injury would result to the trading community, especially in the then depressed state of commerce, for the winding up of this bank would necessarily send from the country an enormous proportion of its capital.

On the 24th of January this important and interesting question was brought before the House for final action, where it was indefinitely postponed by a majority of one, whilst in the Senate it was defeated by the casting-vote of the presiding officer, Vice-President Clinton. In the Senate, Clay, Smith, and Bayard, were among the most distinguished and efficient opponents of the bank-bill; Clinton opposed it not on constitutional grounds, nor on grounds of general policy, but with special objections that the bank would only be a private corporation and irresponsible to the Government, except by a forfeiture of its charter.

1811.

The ablest defender of this bill was Crawford, the most reliable administration man in the Senate, and the immediate friend and confidant of the Secretary of the Treasury. Wm. B. Giles, a distinguished Senator from Virginia, made an elaborate argument in favor of the constitutional power to create a bank, and in elucidation of the implied powers of the Government. The Virginia and Pennsylvania legislatures had sent instructions to the Senators from these States adverse to a recharter of the bank; Giles, at the same time that he obeyed the instructions, made a speech against the right of this famous and very popular doctrine, which rendered him for a while exceedingly distasteful to the people of Virginia.

The friends of this favorite Federal measure, after defeat and disappointment at the hands of Congress, applied to the legislature of Pennsylvania with the alluring bait of an annual bonus of \$40,000; upon the failure of which there was left no alternative but for the bank to transfer its effects to trustees for the purpose of winding up its business. American commerce had been subject to so many interruptions



and ruinous restrictions, and the consequent reduction in the trade of the United States, it was but what every reflective mind could see, that our financial operations would be very much embarrassed. During the years 1808, 1809, and 1810, there had been a constant and heavy reduction in the exports of the country, which to a similar extent had depressed our imports.

In May, 1810, a law had been passed authorizing a loan equal to the public debt, which sum was reimbursable during this year. From the third year of the administration of the Government, we had adopted a system to reduce the principal of the national debt, which required the appropriation of large sums to be applied annually for that purpose; but yet, such was the condition of our finances, that though by this annual appropriation a large amount of debt had been paid

1811. off, we were compelled to make a negotiation for a loan to meet our current expenses. The expenses of our Government for this year were estimated at above thirteen millions of dollars; our outstanding revenue bonds were, at the commencement of the year, estimated at eleven millions; but half a million from the sale of public lands; this would leave the Treasury deficient, and to prevent which five millions of dollars were borrowed. It is worthy of notice that at this time fifty thousand dollars were appropriated for the Cumberland road, and one hundred and thirty-one thousand for completing those fortifications which had already been commenced, with an allowance of seventy-five thousand dollars to relieve and bring home our destitute seamen.\*

The Eleventh Congress was now rapidly drawing to a close; the country was in a high state of excitement and perplexity; especially the mercantile community. The conditional Non-importation Act in reference to Great Britain would soon go into operation; this was a most unwise and unjust piece of legislation, which was but slightly improved by the amendment of the chairman of Foreign Relations, John W. Eppes, of Virginia. This act, which excited so much odium, provided for the forfeiture of all goods after the 2d day of February, 1811, imported from Great Britain or her Colonies, whether belonging to our own merchants or not.

On the 2d of February Mr. Eppes introduced a bill into the House, with a saving clause as respects those goods ship-

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\* Hild. Hist. U. S., second series, vol. iii. p. 231; Bradford, p. 178.

ped prior to the commencement of the act; Randolph, with great foresight and ability, urged the repeal of this law entirely; an angry debate ensued between Eppes and Randolph, which resulted in a challenge to mortal combat from Eppes,—though fortunately it went no further, being honorably and amicably settled by the intervention of mutual friends. In the last moments of the expiring Congress, a desperate effort was made to push the bill of Eppes through the House, which continued to sit during the night, the Federalists hoping to protract the debate beyond the limits of the session of Congress; when ultimately, through much violence, disorder, and palpable violation of parliamentary rules, it was forced through the House, and was carried in the Senate by a vote of 20 to 7; after which, with the passage of two bills,—one incorporating an Episcopal Church in the District of Columbia, the other making a donation of a piece of land in the State of Mississippi to a Baptist Church, both of which received the veto of President Madison,—Congress finally adjourned.

This Congress adjourned on the 4th day of March, 1811; with its three sessions it had been sitting an unusual number of days; perhaps no Congress in our governmental history had done so little or incurred a higher odium from an incensed people,—and justly incensed, not only on account of the unmanly, protracted, and senseless parley with Great Britain, or the duplicity and favoritism shown France, whose conduct had been equally aggressive, but the commercial distress and monetary embarrassments brought upon the country by unwise legislation, which was aggravated by the Eleventh Congress, rather than retrace its mistaken course and alleviate the distress of an embarrassed, tax-burdened people.

The President and his cabinet were, however, continuous in their efforts to maintain friendly relations with England and France, and especially so towards the latter; for in February, Barlow was appointed Minister to the French Court, with full powers to negotiate a treaty of commerce. Napoleon's Ministers received Barlow with great kindness, and vaguely intimated a disposition to form a treaty with his Government. Napoleon continued impracticable to the utmost extreme, maintaining that policy which would subject a large portion of American commerce to his control; at all events, he would exclude all British manufactures from the

continent of Europe. Barlow did not succeed in any effort,—and it was impossible that he could, with the instructions that bound him down to a mere cypher, and the haughty and high-handed policy which he had to face. The Administration was very much censured on account of its manner of conducting our relations with England and France; yet the Congressional elections which had taken place for members of the Twelfth Congress indicated a continued favor of the Administration party with the people; but the Democratic members of Congress were more inclined to quick and decided measures of hostility than they had appeared to be at any previous time.

The census of 1810, the third enumeration under the Constitution, (the result of which was made known in 1811) may very properly be noticed in this place. The distribution of population was under the same heads as by the last census; but, in addition to the population of the former territory of the United States, is to be embraced that settled portion of Louisiana which we had acquired since the last enumeration. Between the white and colored races, the population was as follows:—

White males.....	2,987,571
White females.....	2,874,433
Free colored.....	186,446
Slaves.....	1,191,364

Making a total population of seven millions two hundred and thirty-nine thousand eight hundred and fourteen; which shows an increase of upwards of 36 per cent. upon the population of 1800,—of the whites, 36·18 per cent.; of the free colored, 72 per cent.; and of the slaves 33·40 per cent.

The greater rate of increase which was exhibited by this census is attributable, in reference to the whole population, to the acquisition of Louisiana, and also in some degree to an increased importation of slaves prior to 1808; for it was known that Congress would exercise the power it possessed of prohibiting, after this period, any further importation.\*

The following statement shows the number of white, free colored, and slaves, in the slaveholding States:—

Whites.....	2,208,785
Free colored.....	108,265
Slaves.....	1,163,854
Whole population.....	3,480,904

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\* Tucker's Population of the United States, chapter iii.

From which it appears that both descriptions of the colored population had increased much faster than the whites in the last ten years. In 1810 the slaves constituted less than one-third of the population of the slave States, but now it was more than a third\*

After the result of the census was ascertained, the ratio of representation was fixed at 35,000, increasing the number of the lower House to 182 members, which was forty more than belonged to the preceding Congress, the adjustment of which will appear from the following statement; which will also show the alterations made in the number of representatives from different States, and the comparative increase and decrease of different sections of the country:—

States.	Free Whites.	Slaves.	All others.	Total.	Reps.
New York.....	918,699	15,017	25,333	959,049	27
Virginia.....	556,534	392,518	30,570	979,622	23
Pennsylvania.....	786,804	795	22,492	810,091	23
Massachusetts & Maine...	692,939	.....	7,706	700,745	20
North Carolina.....	376,310	168,824	10,266	555,500	13
Kentucky.....	324,237	80,561	1,713	406,511	10
South Carolina.....	214,196	196,365	4,554	415,115	9
Maryland.....	235,116	111,502	33,927	380,446	9
Connecticut.....	255,179	310	6,453	261,942	7
Tennessee.....	215,875	44,555	1,317	261,727	6
Georgia.....	145,414	105,215	1,801	252,433	6
New Jersey.....	226,868	10,851	7,843	245,562	6
Ohio.....	228,861	.....	1,899	230,760	6
Vermont.....	217,145	.....	750	217,895	6
New Hampshire.....	213,490	.....	970	214,460	6
Rhode Island.....	73,214	108	3,609	76,931	2
Delaware.....	55,361	4,177	13,136	72,674	2
Louisiana.....	34,311	34,660	7,585	76,556	1

The territorial population was insufficient to allow a representative at this time.

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\* Tucker's Population of the United States, chap. iii. p. 27.



## CHAPTER VIII.

## THE WAR OF 1812.

1811. THE Twelfth Congress, which convened on the 4th of November, was called together by the proclamation of the President, which had been issued on account of the critical condition of the country. Hopes had been entertained when the last Congress adjourned that the orders in council would be repealed, especially as the causes which led to their enactment were supposed to be done away with by the formal revocation of the Berlin and Milan decrees. The orders in council were not repealed, under the pretence, which for a time was true, that the French decrees were not effectually repealed. Although Foster, the British Minister, had admitted to Monroe, then Secretary of State, that no blockade could be binding unless supported by an adequate force, England audaciously and impudently demanded of this Government a strict observance of her orders, closing the ports of France, from the Elbe to Brest, against vessels that did not carry on their trade through Great Britain.

England was aiming a death-blow at our commerce, merely to obtain revenge on France in the Berlin and Milan decrees. Our vessels were constantly seized upon the ocean on no other pretext but the bare suspicion of an intention on our part to violate this paper blockade, which is always considered by the law of nations as utterly useless unless sustained by a sufficient force.

Whilst this Government was using every means to preserve friendly relations with the belligerents, the world will impartially judge of the wrongs done us, when it is apprised that under the British orders in council, and since the recommencement of the Continental war, that there were 917 captures, 389 having occurred since the orders in council.

The French seizures and captures amounted to 558, 317

being under the Berlin and Milan decrees, and 45 since their alleged repeal;\* and under the iniquitous system of impressment, England had taken from the crews of American vessels, peaceably navigating the high seas, upwards of six thousand mariners, sailing under the stars and stripes and claiming to be American citizens.†

When Congress convened, the President sent in his Third Annual Message, stating the cause of calling Nov. 5,  
1811. the representatives of the people together at an earlier date than their usual time of meeting, in which he briefly recapitulated the causes of complaint against Great Britain, urging an immediate and effectual vindication of our rights and our honor. He also expressed the great dissatisfaction we were compelled to entertain towards France, on account of the grievous injuries she had done us, which were, however, then under consideration at Paris between our Minister and the French Government. After recapitulating the many wrongs we had received from the belligerent nations, he boldly stated, "with this evidence of hostile inflexibility in trampling on rights which no independent nation can relinquish, Congress will feel the duty of putting the United States into an armor and an attitude demanded by the crisis, and corresponding with the national spirit and expectations."

The Congress to which this Message was sent was overwhelmingly Republican; in the Senate there were only six Federalists, Massachusetts even being partially represented by a Republican in the person of Varnum, so often Speaker of the House, but then the successor of Pickering in the Senate of the United States. Bayard and Lloyd still ably represented the Federal party, and Dana was there as the successor of Hillhouse. The Federalists were indirectly aided by the influence of Giles and Smith and Leib, who used every effort to thwart the policy of the Administration. In the desertion of Giles, the Republican party in the Senate found as efficient a leader in the person of Crawford, who, if less skilled in debate, was more influential as a man; whilst at the same time he was ably supported by a new member from Tennessee named Campbell.

In the House, the entire strength of the Federal party had dwindled to 36, though in debate they relied much on the veteran Quincy, sustained by Key and Martin and Chittien-

\* Hild. Hist., second series, vol. iii. p. 312.

† Ingersoll, vol. i. p. 39.

den. Randolph, like Giles in the Senate, did everything genius and wit and satire could effect, to thwart the Republican party, which, however, had strengthened since the last Congress. With the exception of Connecticut and Rhode Island, New England, as well as New York, was decidedly Republican. Pennsylvania had but one Federalist. Maryland, Virginia, and North Carolina had only ten. As a strong evidence that the war spirit was increasing, every violent war member of the last Congress had been re-elected. Porter, Wright, Williams, Troup, Desha, Johnson, McKee, and Cheves were all old members and violent war men; whilst added to the list were three new names ever to be remembered in the annals of America,—Clay, Calhoun, and Lowndes.

The peace and war parties divided off at the very beginning of the session, as was manifest in the contest for Speaker, the war party being represented by Henry Clay, whose talent, energy, and character, had marked him as the proper man to fill the Speaker's chair, though it was his first session. Clay was known to Congress and the country, having served a short time in the Senate. William W. Bibb,—who had been a member of Congress for six years from the State of Georgia, was a warm political friend of Gallatin, and was urgent for the maintenance of peace,—was the peace candidate for Speaker, but was beaten by Clay, the war candidate, by a vote of 75 to 35.

That part of the Message which had reference to our foreign affairs, was referred to the Committee on Foreign Relations, which the Speaker had appointed with characteristic skill, so as to favor the war sentiment, which day by day was spreading with increased rapidity.

Peter B. Porter, of New York, chairman of the committee, was determined that inactivity and indecision should no longer mark the character of the Republican, or, as it was beginning to be called, the Democratic party; with zeal and assiduity it

Nov. 29. commenced work, and in a short time presented to the House the celebrated report, which was the first official document which breathed a high and determined spirit of resistance to the unparalleled wrongs we had suffered.\*

This report was brief, but fervent, eloquent, and patriotic, and exerted a beneficial influence upon the community. It noticed the many injuries committed against us by France

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\* American State Papers, vol. viii. p. 241.

and England. The former for more than five years, by her oppressive Berlin and Milan decrees, seizing the property of our citizens, producing derangement and ruin to our commerce; in aiming a blow at the power and prosperity of England, we were more deeply injured. Whilst, in a few words, the great cause of complaint against Great Britain, the committee had only to say, "That the United States, as a sovereign and independent power, claim the right to use the ocean, which is the common and acknowledged highway of nations, for the purpose of transporting in their own vessels the products of their own soil and the acquisitions of their own industry, to a market in the ports of friendly nations, and to bring home in return such articles as their necessities or convenience may require, always regarding the rights of belligerents as defined by the established laws of nations. Great Britain, in defiance of this incontestible right, captures every American vessel bound to or returning from a port where her commerce is not favored, enslaves our seamen, and in spite of our remonstrances perseveres in these aggressions. To wrongs so daring in character and so disgraceful in their execution, it is impossible that the people of the United States should remain indifferent; we must now tamely and quietly submit, or we must resist by those means which God has placed within our reach." The committee would not cast a shade over the American name by the expression of a doubt which branch of this alternative would be embraced.\*

This report concluded with a recommendation of the immediate and adequate increase of the military forces of the United States.

The doctrines of this report were thoroughly those of the war party, among the most conspicuous was Henry Clay; and it was through the influence of this party that the distinguished Speaker appointed men on this committee known to be in favor of war with England as the only alternative. The first efforts of the war party were directed to an increase of the army and navy; and now it was that the unwise policy of Jefferson in reducing the right and left arm of our national defence (the army and navy) to comparative insignificance, began to be seriously felt.

On the 6th of November this report was taken  
up in the Committee of the Whole; the chairman, 1811.

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\* Report of Committee, Amer. State Papers, vol. viii. p. 245.



in vindicating its recommendations and position, contended that the conduct of Great Britain was regulated solely by our sense of forbearance, the operation of whose orders had destroyed three-fourths of our trade. That we were able to meet Great Britain fleet to fleet, he did not pretend; but without a navy, we might greatly harass her commerce by hundreds of privateers that would ride the ocean. The North American British Provinces, valuable to us, indispensable to the Mother Country, were an alluring bait, and it was argued we might easily occupy them. There were many and very able speeches made in favor of war with Great Britain, enumerating the causes of complaint and elaborating the views of the committee.

There was opposition, however, to these warlike proceedings; the most brilliant of which was from John Randolph, who, with his accustomed discursiveness, mingled with occasional force of argument and keen satire, lent a charm and interest to everything he said. The main features of the argument of Randolph, which were indeed the reflection of the sentiments of the anti-war party, were the inability of the United States to contend with Great Britain; the great distress that would result to our commercial and financial affairs, and to which was added a want of adequate cause for war.\*

The most efficient argument made to the various efforts of this fearless champion of the anti-war party, was from John C. Calhoun, who was always able, always eloquent and effective, but then a young and ambitious member of the House from South Carolina, who gave an early exhibition of that keen analysis and dexterous logic which made him at all times the ablest and most philosophic debater that has perhaps ever appeared in the American Congress. The committee on Foreign Relations had recommended an additional force of ten thousand regulars to be raised immediately and to serve for three years; the word *ten* was struck out in the Committee of the Whole; it was upon this amendment that Randolph made the great opposition speech of the session to all warlike preparations, which was noticed above, and in answer to which Calhoun spoke on the 12th of December; a summary of which will place the reader in possession of all the strong points of the war party, as

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\* Hild. Hist. U. S., second series, vol. iii; Garland's Life of Randolph.

well as the weak ones of the anti-war party. He spoke of the extent, the character, and duration of the injuries we had received. He inquired, Which shall we do, abandon or defend our own commercial and maritime rights and the personal liberties of our citizens employed in exercising them? These rights are vitally attacked; the gentleman from Virginia suggests no means of redress; though none other exist but war, he considers patient and resigned submission the best remedy.

The first argument made by Randolph, was the unprepared state of the country. Whatever weight this argument might have in a question of immediate war, it surely has little in that of preparation for it. If the country is unprepared, let us remedy the evil as soon as possible.

"We are next told," said Calhoun, "of the expenses of the war, and that the people will not pay them. Why not? Is it from want of means? What! with one million tons of shipping and a commerce of \$100,000,000 annually, manufactures yielding a yearly product of \$150,000,000, and agriculture of thrice that amount, shall we be told the country wants capacity to raise and support ten or fifteen thousand additional regulars?"

Randolph dwelt at great length upon the dangers of the war: first, that which would result from the influence of the black population of the Southern States. In reply to which all that Calhoun could say was, to "regret that such is the state of apprehension in his (Randolph's) part of the country."

Randolph thought our Constitution, in the second place, was not calculated for war and that it could not stand the shock. "This," said Calhoun, "is rather extraordinary. If true, we must then depend upon the commiseration or contempt of other nations for our existence. The Constitution, then, it seems, has failed in an essential object,—'to provide for the common defence,' and none could doubt that this was not a defensive war."\*

After all this debate, which lasted for several weeks, the resolutions of the committee finally passed on the 19th of December, by a vote of 109 to 22. This was the first signal for warlike preparations, and a bill was forthwith introduced to fill up the ranks of the existing army to 25,000 men, to

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\* Randolph's Speech; *American Oratory*, by Biddle, 1836; Calhoun's Works, vol. ii. p. 1.

serve for five years or until discharged. In the Senate this bill was urged by Giles, in preference to a small number; probably because he knew one or the other must inevitably pass. In the House, Calhoun, Clay, and many other bright and gallant spirits, determined not only on resistance, but a bold and efficient one, advocated the larger bill calling for 25,000 men. It was distinctly intimated, especially by Clay, that war was nigh at hand, and in his patriotic fervor he exclaimed,—“Philadelphia may be invaded, New York or Boston may fall, and every seaport be taken; but the country will remain free. The whole of our territory this side of the Alleghany may be invaded, still liberty will not be subdued.” This bill speedily passed the House by a vote of 94 to 34. Besides raising 25,000 additional regulars, two major and five brigadier-generals were appointed; to the recruits was a bounty of sixteen dollars; two dollars to the enlisting officer; when discharged, two months’ extra pay and one hundred and

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sixty acres of land. On the 14th of January, Congress appropriated \$1,500,000 to buy arms, ordnance, and other necessary appurtenances for an army, and \$400,000 for powder, ordnance and small arms for the navy. At this time the action of Congress met the cordial approval of many of the State legislatures; from Virginia, Kentucky, Georgia, Ohio, Pennsylvania, and New Jersey, resolutions were sent up promising to sustain the General Government; and Massachusetts, speaking through the House of Representatives, boldly denounced Great Britain; her impressments as “man-stealing,” and the opponents of the Administration as “inceptive traitors.”

Congress seemed to give its attention almost entirely to the preparations necessary for a vigorous prosecution of the approaching struggle; and besides the last army bill so recently enacted, a bill passed authorizing the President to employ 50,000 twelve-months’ volunteers.

Soon after the passage of these acts, the other recommendations of the President were acted upon; in reference to the navy, Cheves, chairman of the Naval Committee, reported in favor of a large increase in the number of our boats, recommending a standing appropriation for the purchase of timber and establishing a dock for repairs. The chairman was in favor of filling the blank which authorized the building of a number of frigates with ten; Rhea, of Tennessee, moved to strike out that section which authorized the

building of new frigates; he was sustained by some very intelligent members of Congress,—especially by Boyd, of New Jersey, Blackledge, of North Carolina, and Smilie. They were opposed in masterly arguments by Cheves, Clay, and Lowndes, the later being in favor of forty frigates and twenty-five ships of the line. The argument of Henry Clay, the bright, gifted, and eloquent representative of the war party and unflinching defender of the rights of his country, was as brilliant as it was effective. Though glancing at the general grounds for war, he directed his aim chiefly to a vindication of the navy from the suspicions of jealousy to which it had been so often subjected. He contended that the whole Western section of the country was as immediately interested in the maintenance of a naval force as the Atlantic States. After alluding to the exposed situation of certain ports of our Atlantic border, Clay proceeded to say,—“Whilst I feel the deepest solicitude for the safety of New York and other cities on the coast, I would be pardoned by the committee for referring to the interest of that section of the Union from which I come. If there be a point more than any other in the United States demanding the aid of naval protection, that point is the mouth of the Mississippi. What is the population of the Western country dependent on this single outlet for its surplus productions? Kentucky, according to the last enumeration, has 405,511; Tennessee, 261,727; Ohio, 230,760; and when the population of the western ports of Virginia and Pennsylvania, and the territories which are drained by the Mississippi or its waters, is added, it will form an aggregate equal to about one-fifth of the whole population of the United States, resting all their commercial hopes on this solitary vent. \* \* \* \* I call the attention of my Western friends, especially my worthy Kentucky friends (from whom I feel myself with regret constrained to differ on this occasion,) to the state of the public feeling in that quarter whilst the navigation of the Mississippi was withheld by Spain; and to the still more recent period when the right of depot was violated. Abandon all idea of protecting by maritime force the mouth of the Mississippi, and we shall have the recurrence of many similar scenes; we shall hold the inestimable right of the navigation of that river by the most precarious tenure. The whole commerce of the Mississippi—a commerce that is destined to be



the richest that was ever borne by a single stream—is placed at the mercy of a single ship lying off the Balize.”\*

This speech of Clay is a proud monument of that noble love for the whole Union, in that distinction from local attachments which always marked his public acts. So great was the prejudice existing to the navy, that Rhea’s motion was carried by a vote of 62 to 59.

The bill as it went to the Senate contained only an appropriation of \$480,000 for fitting out the Constellation, Chesapeake, and Adams frigates, and \$200,000 for three years to buy timber to rebuild three other rotten frigates.

After reaching the Senate, Lloyd moved to insert an appropriation for twenty new frigates. He was opposed to the war; yet he thought the course of Great Britain indefensible. “Give us,” said he, “this little fleet, and in a quarter of the time in which you would operate upon her in any other way we would bring Great Britain to terms.” Lloyd failed in his effort, which was in every respect praiseworthy and marked by a speech of great ability. His great opponent was Crawford, and under his lead the Senate reduced even the appropriation for repairs down to \$300,000.†

The financial relations of a country, always important and interesting, become especially so on the approach of a war. Gallatin’s financial report, submitted to Congress in the early part of the present session, had flushed the hopes of the war party to the very highest pitch; not that the Secretary had said anything in advocacy of the war, for he was bitterly opposed to it, but his report had presented so favorable a condition of our finances, that the war party supposed but little if any difficulty could exist on that ground. It was to be accounted for from the unexampled success that had attended the Treasury by the brief period of unrestrained commerce after the expiration of the embargo. It is an important truth and worthy of the most profound consideration, that every expense for the year 1811, even to the payment of the temporary loan of the year 1810, was not only fully met out of the current receipts, but left a balance of \$3,000,000 in the Treasury, with \$7,500,000 of revenue bonds. From the sales of land and miscellaneous sources,

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\* Speech of Henry Clay on the Increase of the Navy.

† Hild. Hist. U. S., second series, vol. iii. p. 281.

\$700,000 might be calculated on, according to the estimate of the Secretary.

The ordinary expenses of the Government, with the interest on the public debt, which was reduced to \$2,221,000, with a million annually to meet the principal, only amounted to \$10,000,000. Thus would occur for the ensuing year but a small deficit, which could be easily met, the Secretary thought, by increasing the rate of duties; but if this was not done, enough money could be raised by loans to meet any extraordinary expenses of the Government; even those of war.

It is somewhat strange that so able and experienced a financier as Gallatin should have fallen into so great an error, as will presently appear. Some six weeks after the session had commenced, the Secretary was consulted by the Committee of Ways and Means in reference to the ten millions needed for the new and unexpected expenses of the Government. I quote from an elegant and accurate historian, who says:—"Gallatin found himself obliged to present things in a very different light. He informed the Committee of Ways and Means that his project of 1808 for the prosecution of a war by loans only, must be taken in connection with his recommendation then made to double the existing duties. Had that recommendation been adopted, there would now have been twenty millions in the Treasury. He had also then reason to suppose that the Bank of the United States would have been rechartered. Had that been done on the plan he had suggested, there would have been a sure resource for loans to the extent of fifteen millions. To borrow elsewhere was an untried experiment, and to give it the least chance of success, taxes must be provided for paying the interest. His recent calculation of six millions from customs had been based on an expected continuation of peace. A war would probably reduce that source of income to two millions and a half, or five millions if the duties were doubled."

This report, which was presented on the 21st of January, estimated a deficit of four millions, which ought to be provided for by a direct tax to the amount of two millions, and internal taxes to raise three millions, which was one million more than the regular expenses would require. Great surprise as well as dissatisfaction was expressed by many members of Congress and throughout the country at this report; nor did the leading war journals of that day hesitate to charge

unfair motives to the Secretary, in thus presenting so unfavorable a view of our finances, in order to avert the approaching war if possible. It failed most signally, if such was the purpose of the Secretary of the Treasury, for very soon thereafter a loan of eleven millions was authorized, and the means provided for its payment by a new tax bill.

About this period the President transmitted to Congress several papers, showing a base effort on the part of the British Government to induce the anti-war party, which was for the most part found at the North, not only to divide the Union, but to secure the Northern section as an ally to Great Britain. This information was communicated to our Government by a man named Henry, who was a native of Ireland, but for many years a naturalized citizen, and once an editor of a political paper in the city of Philadelphia. This exposure greatly exasperated the Republican against the Federal party, which was chiefly the anti-war party, and also agitated the feelings of the war party against the English Government.\* Henry had been a secret agent of the British Government, and upon refusal to pay him, he voluntarily gave all the information in his possession to the President of the United States.† Henry received fifty thousand dollars for the disclosures he made; and, for some reason entirely unknown, the President kept them a profound secret for nearly a month.

The British Minister disavowed any knowledge of the existence of such a mission or transactions as Henry referred to; yet the language of the Committee on Foreign Relations was,—“The transactions disclosed by the President’s Message present to the mind of the committee conclusive evidence that the British Government, at a period of peace and during the most friendly professions, have been deliberately and perfidiously pursuing measures to divide these States, and to involve our citizens in all the guilt of treason and the horrors of a civil war.”‡

Madison was known to be averse to war, in which position he was sustained by Gallatin. The elections of 1811 had, however, resulted largely in favor of the Republicans, and

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\* Hild. Hist. U. S., second series, vol. iii. p. 284; Life of H. Clay, vol. i. p. 62; Stat. Man., vol. i. p. 349.

† Dwight’s Hist. and Review; Sullivan.

‡ Journ. Cong., 1812.

that party was strongly disposed to immediate war; indeed, it may be said the most prominent friends of the Administration were determined on war. Most conspicuous among them were H. Clay, Calhoun, Lowndes, Porter, and Cheves, besides other gallant spirits.

It was impossible for Madison to retain the position of chief of the Republican party, if he stood longer indifferent to war. The Presidential election was approaching. The Federalists were determined to make a vigorous opposition to the Republican ticket, and mainly upon the war question, and they well knew the candidate would be a decided war man. Madison was popular, but was too much inclined to peace; if he would assume the lead in the approaching war, he was the most fit and proper person. He was placed in a most embarrassing position; he and his most confidential adviser, Gallatin, were opposed to the war, whilst his party, led on by the most talented members of Congress, were in favor of it. Randolph and Macon stood almost alone of the old Republican party. The war party on one side were making as desperate an effort to secure the nomination for President, as the present party in power was to retain the position it then occupied. Many newspapers were indulging in daily assaults upon the Administration on account of its feebleness and want of resolution. De Witt Clinton was prominent among 1812. the Federalists, but stood ready to accept the nomination from the war party. The leaders of the war party were determined to have Madison; a committee called on him, under the personal influence of Henry Clay, its advocate and leader. Madison waived his individual feelings and convictions for the good of his country, and consented to recommend a declaration of war. Under no other circumstances could he have obtained a second nomination for President, which he did soon thereafter unanimously, from the Republican members of Congress, assembled in caucus at the City of Washington, on the 18th day of May, 1812.

It must be observed that early in April of this year, Madison had undergone some change in his opinion in reference to hostilities towards England. From his known and avowed disposition for conciliation is rather to be attributed his dilatory course, than a want of those qualities necessary to uphold the dignity of the Government, though it must be admitted he long halted where forbearance could scarcely be considered a virtue.



It was evident that the mind of the President was being aroused to a sense of the injuries we were suffering and had long endured. He sent to Congress a confidential Message, "considering it as expedient, under existing circumstances and prospects, that a general embargo be laid on all vessels now in port, or hereafter arriving, for the period of sixty days," and recommending its immediate passage.\*

Porter had withdrawn from the head of the Committee of Foreign Relations, whose place was now filled by John C. Calhoun. The Message was referred to this committee, and a bill introduced in accordance with its recommendation. In the House an effort was made by Boyd, of New Jersey, to prolong the embargo to 120 days, which was lost by a vote

April 3. of two to one, and the bill finally passed by a vote of 70 to 41. When it reached the Senate, it was amended by substituting ninety days instead of sixty, and thus it became a law on the next day by the signature of the President, "prohibiting the sailing of any vessels for any foreign port, except foreign vessels, with such cargoes as they had on board when notified of the act.†

A spirited debate ensued on this bill, to an inquiry whether it was a precursor of war. Grundy said it was. Henry Clay was among the first to express his warmest approval of this measure, "because it is to be viewed as a direct precursor to war." John Randolph opposed the embargo with all that extraordinary power that distinguished his every effort. He did not consider it an initial step to war, but as a subterfuge, a retreat from battle. "What *new* cause of war," he asked, "or of an embargo, has arisen in the last twelve months?" Addressing himself to Henry Clay, he exclaimed,—“I hope, Sir, the spirit of party and every improper passion will be exorcised, that our hearts may be as pure and clean as fall to the lot of human nature. I am confident in the declaration, Mr. Chairman, that this is not a measure of the Executive, but it is engendered by an extensive excitement upon the Executive.”

He was fearlessly met and fully answered by Henry Clay, with words burning with patriotic zeal and eloquence in behalf of the honor of his country. "The gentleman from

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\* Madison's Confidential Message, April 1, 1812; Stat. Man., vol. i. p. 292.

† Journ. Cong. 1812; Memoir of Henry Clay, p. 66; Hild. Hist. U. S., second series, vol. iii. p. 293.

Virginia," he said, "need not have reminded them, in the manner he had, of that Being who watched over and surrounded them. From this sentiment we should draw very different conclusions from those which occurred to him. It ought to influence them to that patriotism and to a display of those high qualifications so much more honorable to the human character. The gentleman asks what *new* cause of war has been avowed? The affair of the Chesapeake is settled, to be sure, but only to paralyze the spirit of the country. Has Great Britain abstained from impressing our seamen,—from depredations upon our property? We have complete proof, in her capture of our ships, in her exciting our frontier Indians to hostility, and in her sending an emissary to our cities to excite civil war, that she will do everything to destroy us; our resolution and our spirit are our only dependence. Although I feel warm upon this subject, I pride myself upon those feelings, and should despise myself if I were destitute of them."

Randolph, as if it were possible to frighten Henry Clay from his well-matured convictions, exclaimed,—“He had known a gentleman not inferior in gallantry, in wisdom, in experience, in the talents of a statesman, to any upon the floor, consigned to oblivion for advocating a war upon the public sentiment.” But in answer to this, Clay could exhibit the gleaming and patriotic resolutions of fourteen different State legislatures, indicating how strongly the tide of public opinion was rushing in behalf of war.

Quincy, of Massachusetts, possessed of much eloquence and ability, opposed the embargo with all his strength. It was, in his opinion, an act of treason to the interest of the country; its enactment an outrage upon common sense. He acknowledged that, in connection with some of his colleagues, he had sent expresses to the Eastern cities, announcing the undoubted establishment of an embargo. He said,—“We did it to escape into the jaws of the British lion and of the French tiger, which are places of repose, of joy, and delight, when compared with the grasp and fang of this hyena embargo.”

Dr. Mitchell, of New York, had been educated among the British; knew them well; they were proud and overbearing; with a population of seven millions we ought not to be frightened. “We need not fear to face a nation whose head (the Prince-regent, afterwards George IV.) had been some years

before expelled from a jockey-club for cheating, and had been lately turned out of doors for his unworthy conduct to a neighbor's wife.''\*

The nation had now taken the first preliminary step towards a declaration of war against Great Britain. It was received with general approval by the people, though in some sections it was as bitterly opposed, as any other act of hostility towards England would have been. All that could now engross the attention of Congress was the preparation for the coming contest, which all saw was inevitable. A majority of the people, as well as the Republican members of Congress, thought that too much delay had already occurred in bringing matters to a crisis. Negotiations even were carried on with Foster, the British Minister, who frequently held out the hope that the difficulties would be adjusted. It was evident, from the diplomatic correspondence with Foster, that no concession was proposed, and it was determined by the Republican members of Congress that a deputation should wait on the President, and urge not only an active and vigorous preparation, but a speedy declaration of war. Henry Clay, who was foremost in this delegation, exerted the most decided influence upon the President; he demonstrated the folly of seeking a peaceful adjustment of our difficulties. He would cut short the argument with Foster, and appeal to arms and the God of battles for the vindication of our rights.

March 22. It was about this time that the attention of the Government was arrested from the consideration of war with England, to a brief notice of the condition of affairs with France.

The dispatches which had been anxiously expected from Barlow, our Minister to France, were brought in by the *Hornet*. They only told of the fruitless mission he was filling, and of the determination of the French to hold on to the Berlin and Milan decrees.

At this session of Congress, Louisiana was admitted into the Union as a State, and the Territory previously called Louisiana was organized, with a Territorial government, under the name of Missouri. Acts were also passed to prohibit the exportation of specie, wares, or merchandise from the United States during the continuance of the embargo. A General

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\* Garland's *Life of Randolph*, vol. i. p. 298; *Memoir of Clay*, vol. i. p. 64; *Hild. Hist. U. S.*, second series, vol. iii. p. 294.

Land Office was established as a part of the Treasury Department; six millions of acres were set apart to pay the one hundred and sixty acres bounty promised to the soldiers of the United States; an issue of five millions of dollars in Treasury notes was authorized, and the duties <sup>1812.</sup> on imports were raised one hundred per cent.; American vessels were prohibited from trading with the enemy.

The elections which had taken place in the spring of this year were somewhat unfavorable to the views of the Administration; in Massachusetts, Rhode Island, Connecticut, and New York, a considerable change had taken place in favor of the Federal party. After the interview between the committee which had waited on Madison, his mind seemed fixed on taking immediate steps of hostility against England; Clay, whose personal influence was always very great, was perhaps of more weight on this occasion than in any other event of his brilliant and useful career, for he was the spokesman of this famous deputation, and successfully persuaded Madison to the decisive steps he took, though his chief confidential adviser, Albert Gallatin, remained inflexible in his opposition to war.

On the 1st of June, the long-sought event was <sup>1812.</sup> consummated; Madison performed the crowning event, not of his administration, but his life; he issued his War Message, as it has been styled; in which, after recapitulating in clear and strong language the aggressions of the English Government, he says,—“We behold, in fine, on the side of Great Britain, a state of war against the United States; and on the other side, of the United States, a state of peace towards Great Britain. Whether the United States shall continue passive under these progressive usurpations and these accumulating wrongs, or opposing force to force in defence of their national rights, shall commit a just cause into the hands of the Almighty Disposer of events, avoiding all connections which might entangle it in the contest or views of other powers, and preserving a constant readiness to concur in an honorable re-establishment of peace and friendship, is a solemn question which the Constitution wisely confides to the legislative department of the Government.” After recommending the above course to be pursued towards Great Britain, the President abstained from recommending any definite measures to be taken towards France, because



there then existed an unclosed discussion between our Minister at Paris and the French Government.

John Randolph moved to refer the Message of the President to a Committee of the Whole; but the House preferred referring it to the Committee on Foreign Relations. John C. Calhoun, the chairman, with a majority of the committee, consisting of Felix Grundy, John Smilie, John A. Harper,

June 3.

Joseph Desha, and Ebenezer Seaver, reported to the House a full and explicit manifesto, which was the basis of a declaration of war. The committee, after exhibiting a long, continuous, and unsatisfied demand for remuneration on account of the depredations the English had been committing on our commerce, the impressment of American seamen by the commanders of British ships-of-war, the British doctrine and system of blockade, and the adoption and continuance of the orders in council, in an able and patriotic State paper, concluded,—“Relying on the patriotism of the nation, and confidently trusting that the Lord of Hosts will go with us to battle in a righteous cause, and crown our efforts with success, your committee recommend an immediate appeal to arms.”\*

In consideration of the multiplied wrongs we had received from the British Government, a detailed enumeration of which I have given elsewhere, Congress was not long in adopting the recommendation of the committee.

Calhoun, who presented the report, likewise offered a bill declaring war against Great Britain. The bill was referred to a Committee of the Whole; on the next day it was reported back, when a resolution was offered by McKee to include France also in a declaration of war. This proposition received only ten votes. When the bill was reported to the House, the declaration of war passed by a vote of 79 to 49. The bill was delayed fourteen days in the Senate; Giles, one of the Senators from Virginia, moved to substitute letters of marque and reprisals against both France and England, in the place of a declaration of war against the latter; this motion was lost by a vote of 14 to 18, when the bill passed by a vote of 19 to 13. Seven Republicans,—Bradley, of Vermont, Gilman, of New Hampshire, German, of New York, Lambert, of New Jersey, Worthington, of Ohio, Reed, of

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\* American State Papers, vol. viii. p. 399.

Maryland, and Pope, of Kentucky,—out of honest convictions of opposition to the war, voted with the Federalists.

Of the seventy-nine members who voted for the war in the House, sixty-two resided south and seventeen north of the Delaware; of the nineteen Senators who voted for war, fourteen resided south and five north of the Delaware.\* The war was evidently a measure of the South and West; and it is but another evidence of the blind devotion to immediate profit rather than future incalculable good, that bound the North to the anti-war party, for it was to their benefit that it ultimately resulted, as I will show at another time.

The act declaring war was from the pen of William Pinckney, the Attorney-General: it was brief, but comprehensive; and on the 18th day of June, 1812, received the approval of the President, and on the following day he issued the proclamation announcing that war existed between this country and Great Britain, and calling upon the people to sustain the public authorities.†

Upon the immediate declaration of war was organized an anti-war party, composed chiefly of the Federalists and those disaffected Democrats who had used every exertion to thwart the efforts of the Administration, and to smother the voice of an outraged and oppressed people.

The great object of the Republican party being now obtained, nothing remained but to provide the necessary means for conducting the war in the most energetic manner. Notwithstanding the long time the prospect of war hung over the nation, Congress had yet been exceedingly remiss in providing for the wants of the Government in case it should occur. Fifteen millions of dollars were appropriated for the army; nearly two millions seven hundred thousand for the navy. Not one cent had, however, been provided for by taxes, and

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\* Hild. Hist., second series, vol. iii. p. 306; Stat. Man., vol. i. p. 354; Sullivan.

† This brief and comprehensive act is in the following words:—"Be it enacted, &c., That war be and the same is hereby declared to exist between the United Kingdom of Great Britain and Ireland and the dependencies thereof, and the United States of America and their territories; and that the President of the United States is hereby authorized to use the whole land and naval force of the United States to carry the same into effect, and to issue to private armed vessels of the United States commissions, or letters of marque and general reprisal, in such form as he shall think proper and under the seal of the United States, against the vessels, goods, and effects of the Government of the said United Kingdom of Great Britain and Ireland and the subjects thereof."—*Journal of Congress*, 1812.

the income by customs and from the public land sales was not more than nine millions five hundred thousand dollars. It was a true policy to avoid the imposition of taxes at the commencement of the war, which might have been at its earliest stage too severe a test for the popularity of the Administration. It is a remarkable incident, that within five days after the declaration of war by Congress, the English Government repealed the *orders in council*, which was done as soon as official information was received that the French decrees had been repealed. The duplicity of the French Government had doubtlessly prolonged the existence of the orders in council, and it is more than probable, had the declaration of war been postponed until the news of the repeal could have reached the American Government, that the war would either have been averted for a while, or been declared against the French Government, for which a large party in the country and some members of Congress were equally inclined.

It would have been impossible, however, to stay but for a short time that high and burning temper so justly manifested against the outrageous conduct of Great Britain by the majority of the American people. The orders in council were repealed; yet what atonement had been offered in satisfaction of that systematic effort, so long pursued, to prostrate the commerce of the country beneath the relentless trident of Great Britain? Could the repeal of the orders reimburse us for the immense value of the boats and cargoes that had been destroyed? or was it possible to make reparation for the thousands of true-hearted American sailors who had been piratically taken from our vessels and forced into the British service? Not only those American citizens who had fled from the tyranny of the English Government were taken, but the adopted citizens of this country, without regard to their language or nativity, were as ruthlessly snatched from the American deck with that ensign of liberty in hand,—the stars and stripes of the United States,—as would have been the arrest of a vagrant sailor about to depart from some English boat.

The declaration of war had scarcely passed the American Congress, when the Federal members in the House of Representatives published an address to their constituents, setting forth the grounds of their opposition to the war. This address, which was drafted by Quincy, was marked by con-

summate skill as an able and ingenious argument; supporting a cause against which truth and justice, and all sense of honor would ultimately appear in bold and unmistakable opposition. This paper, which was purged of the violence and temper it had received from its author, served as the great incentive to the anti-war party, which greatly increased in a short time. It opposed the war, because aggressions by one of two nations at war afforded no ground of retaliation by a neutral nation. The British orders in council excluded us only from the trade of France and its dependents, Holland and Italy. The utter ruin to our commerce, the inability to cope with Great Britain, and the danger to our constitutional form of Government, were some of the chief objections stated in this paper, and constantly urged by the anti-war party in and out of Congress.

The most violent opposition to the war existed in Massachusetts; especially about Boston, which, though the cradle of the Revolution, was then the nursery of Federalism. Here it was that Elbridge Gerry, the candidate of the war party for Governor, was beaten by Caleb Strong, the anti-war candidate, by a vote of thirteen hundred. From the very same Plymouth Rock, where the firm and unwavering standard of liberty was first planted, Caleb Strong, the Governor of Massachusetts, in his message to the legislature, denounced the Administration as subservient to France, threw odium and discredit upon the war loans, and planted, perhaps, the seed of that opposition which will be a lasting shame to the New England States. The infection spread to Maryland, and also to Connecticut and other Northern States.

The Boston press was bold and abusive in denunciation of the war and the war loans, whilst the pulpit itself was stained by the abuse poured forth by the clergy in opposition to the war, and those measures necessary to carry it on. Copious extracts might be made from the many political discourses, which, under the garb and assumed sanctity of a sermon, issued from the Northern pulpit.\*

The entire separation of Church and State under the Constitution of the United States, as well as under the constitutions of all the States, is among the most valuable and interesting features in our Government. This separation tends greatly to enhance the purity of the Church, and it is always

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\* Ingersoll, vol. i. chapter i.



a melancholy scene when the pulpit is to be corrupted by the political passions of the day, the most violent being always hurled from that sacred desk, when once contaminated by the foul breath of party spirit.

It is an element in American politics that, whilst it is unmixed with the splendor of that holy creed which is above the temporary wants of man, feels and appreciates the force and purity of its moral power. The pastoral relation is one of great influence and family endearment, which stamps its image upon politics, manners, habits, society, education, and even Government itself; for it has been supposed by an eminent historian that "The Congress which declared war, deterred by the denunciations of the Church and authorities of the several States, left undone the duty of levying direct taxes and internal duties."\* Upon this point, however, the opinion may be safely maintained, that it was the policy of Congress to rely at this time upon loans, rather than the immediate assessment of taxes.

May 18,  
1812.

During the session of this Congress James Madison was nominated for re-election as President by a unanimous vote of eighty-two Republican members of Congress, who met in caucus for that purpose. Langdon, of New Hampshire, was nominated at the same time for Vice-President, but being upwards of seventy years of age, he refused to accept. The nomination was afterwards conferred on Gerry, the recently defeated war candidate for governor, in Massachusetts.

The Republican members of the New York Legislature were dissatisfied with the administration of Madison, and, fusing with some of the Federal friends of De Witt Clinton, nominated him in opposition to Madison. In September of this year the Federalists held a convention in the City of New York; eleven States were represented, and seventy members were present. This convention, deeming it the surest means of defeating the election of Madison, resolved to support Clinton for the Presidency, and nominated Jared Ingersoll as Vice-President. Congress had been in session since the 4th of November; it had been a protracted and exciting session; war had been declared against the most powerful nation in Europe; all eyes were turned to the means of sustaining the country in its arduous and perilous undertaking; and firm

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\* Ingersoll, vol. i. chap. i.

and willing hearts will always find the means of self-preservation.

The expenditures had been greatly increased by the new army bill, and by appropriations for the navy. The only tax laid was one doubling the impost. Five millions of Treasury notes were issued, and a loan of eleven millions of dollars, with a surplus of eight millions a year from impost, previously pledged to redeem the national debt, which amounted to forty-five millions of dollars, were the financial efforts of this Congress.

The national income for the year 1812 was only about nine millions and a half of dollars; whilst it was estimated the war would cost between thirty and forty millions.

The revenue from impost, with double duties, could not exceed thirteen millions.

With such a miserable show in our financiering talent, it would seem that the heart of the patriot must sicken; yet it is a pleasing reflection to learn, that the forty millions of old debt with which we commenced the war, which in less than three years reached one hundred and twenty millions, was, interest and principal, all liquidated in less than twenty-four years.\*

Let the statesmen of Europe learn this truth and profit by its force and beauty, that this young and often ridiculed republican Government, is the only one known to history that has ever paid its national debts. The manner in which it was done, and the credit to whom it belongs, I will notice in the progress of this work.

With this exhibition of our financial talent and capacity, Congress adjourned on the 12th of July, 1812.

Notwithstanding the declaration of war which had but so recently been proclaimed to the world, before a hostile foe had trod our soil, or a single vessel reached our shore, this Government was still anxious to restore the friendly relations that had once existed.

The orders in council had been repealed a few days after the declaration of war by the United States Government, which was unknown in Washington, as was the declaration of war in London. June 23.

Whilst each Government was ignorant of the steps taken by the other, Monroe, the American Secretary of State, wrote

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\* Ingersoll, vol. i. p. 58.

June 26. to Russell, Chargé d'Affaires of the United States in England, apprising him of the declaration of war, but authorizing him to agree to an armistice for the negotiation of a treaty, on condition that the orders in council should be repealed, and the impressment of seamen from our vessels should be discontinued. As an inducement to the British Government to discontinue the practice of impressment, Russell was authorized to give assurance that a law would be passed (to be reciprocal) to prohibit the employment of British seamen in the public or commercial service of the United States. At an interview between Russell and Castlereagh, the latter spoke with great impatience of the continued hopes that were entertained in America, that the right of impressment would ever be relinquished. He went so far as to say that "our friends in Congress had been so confident in that mistake, that they had ascribed the failure of such an arrangement solely to the misconduct of the American Government." All of Russell's propositions were rejected, though they were exceedingly temperate and just. Castlereagh expressed surprise, that as a condition preliminary to a suspension of hostilities, the Government should have made the proposition that the British Government should desist from its time-honored custom of impressment.\*

The haughty Englishman had even gone so far as tauntingly to say, "If the American Government was so anxious to get rid of the war, it would have an opportunity of doing so on learning the revocation of the orders in council."

After this contemptuous rejection of the fair and just propositions for an amicable adjustment of our difficulties, it devolved upon the United States to prosecute the war with the utmost vigor by land and by sea.

It is a pleasing and instructive duty to notice at this period, not only the happy influence the republican form of our Government had upon the minds of a large class of people then constituting a portion of our population, but the essential service they rendered the cause of liberty by the generous support they offered in behalf of their adopted country.

I allude to the co-operation of a body of influential foreigners, then residing in the United States, in the bold and fearless manner in which they advocated the war. There was

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\* Correspondence between Russell and Castlereagh, Amer. State Papers, vol. ix. p. 70.

a large demand for printers and editors, which could not be supplied from domestic sources; many who had been driven from their Parent Land, by the oppression of their Government, found a safe and happy home in the United States. They had seen abroad the wrongs that had been imposed upon our unoffending country. Upon reaching our shores they mingled their sympathy with our distress, and freely came to our rescue in advocating a war that necessity had forced upon us. Randolph complained that nearly every influential press in favor of the war was conducted by foreigners. He instanced, with a sneer, whilst history heralds it with a blaze of honor, the "*Aurora*" and the "*Democratic Press*," at Philadelphia, edited, the one by Duane, the other by Binns; the "*Whig*," at Baltimore, edited by Irving; and the "*Intelligencer*," at Washington, by Gales. It was noticed by Foster, the British Minister, present when war was declared, which he stated in the House of Commons, that among those who voted for war "were no less than six late members of the Society of United Irishmen."\*

The policy of the United States has been severely censured by many able writers on the war of 1812. There was error in the particular blow that was first aimed at the enemy, the invasion of *Canada*; but the design of invasion was right as well as politic. We could do nothing by sea, was then the universal impression; to meet the gigantic force of Great Britain either on the land or the ocean, we had but the skeletons of a few regiments and a few frigates. The great effort should have been to destroy the chief elements of British naval and territorial power at the first blow. The aim at conquering Canada was exceedingly unpopular at the North; whilst in reality it would have been, if successful, but stripping the branches of English aggrandizement on this continent, instead of striking at the root of this overshadowing power. With the limited force we then had, we could have made it much more effectual by the seizure and occupation of Halifax than any other point belonging to the British. This was the great rendezvous, in America, of British naval power, by the occupation of which all her transatlantic facilities would be paralyzed; which might effect an entire revolution in the commercial and naval power of England. The people of the North would have favored this design, and lent a more generous aid

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\* Hild. Hist. U. S., second series, vol. iii. p. 315.



to effect it. If successful, Canada would have fallen into our hands as falls the limbs when the trunk is severed. With Halifax in our possession, no other fit place could be found to shelter and repair, with convenience and safety, the vessels of Britain. If Canada fell,—and surely it would, including Quebec, cut off from all assistance from the Mother Country for six months in the year,—Montreal, Kingston, York, and Malden would also fall, and remain ever subject to the arms or the Government of the United States.\*

It is not the purpose of this work to notice the naval or military operations of the war. The sad reverses that hung around our arms in Canada, the surrender of Hull, the repulse of Van Rensselaer, near Niagara, with many other failures and disasters, but convince the reader of the folly of the invasion of that section of the enemy's territory, which remained unhurt during the war.

After the rejection of the offer made by Russell to Castle-  
1812. reagh, it seems that the English Government was still anxious for the restoration of amicable relations. In July, Sir George Prevost, Governor of Canada, sent Baynes, his adjutant-general, to Greenbush, near Albany, with a flag of truce, to negotiate with General Dearborn, who was induced to sign an armistice. The arrangement between Baynes and Dearborn was promptly set aside by Madison, because it refused to relinquish the right of impressment.

Admiral Warren arrived at Halifax in September, 1812, who was invested with full power to negotiate a provisional accommodation. He addressed a letter to Monroe, stating that the orders in council had nearly ceased at the time of the declaration of war; but on the receipt of the declaration, an order had issued to detain all American vessels. If the American Government would consent to the proposition, he was authorized to negotiate for an adjustment of the difficulties between the two countries.

Monroe replied that the President would agree to an armistice, provided the Admiral was authorized and would agree to negotiate terms by which impressment should cease. These

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\* Ingersoll, vol. i. p. 77. This idea was suggested to Eustis, Secretary of War, by Major Jessup, a young Kentuckian; the Secretary laid it aside. It was afterwards communicated to General Armstrong, when Secretary of War, by Colonel Duane; but none seem to favor it but Monroe, who succeeded Armstrong, as Secretary of War, and it was thought Monroe would recommend it for the ensuing campaign, but for the intervention of peace.

terms, so very just and accommodating, were refused by the British Government, and the war was to be continued upon the question of impressment.\*

The disgrace which had attended our army in Canada was, in a measure, wiped away by the unexpected brilliancy of our naval exploits, commencing with the capture of the *Guerrier* by the *Constitution*, under the command of Captain Hull, on the 18th of August, followed by the sur-<sup>1812.</sup>render of the *Frolic* on the 18th of October, to the *Wasp*, commanded by Captain Jones; on the 25th, *Decatur* captured the *Macedonian*, and shortly afterwards the *Constitution* added another wreath to our fame and the glory of the American navy, by the capture of the British frigate *Java*.

These results were attended with the twofold advantage of inspiring a new zeal into the American heart, and breaking down that obstinate objection the Democratic party had so long maintained towards an American navy. After this, they will be found voting with the Federalists in making liberal appropriations for the navy.

At this period arose a very important question, discussed with much interest in Congress, and involving a great constitutional principle in reference to the power of the Federal Executive over the militia; whether under his uncontrolled and discretionary power, or whether the authority of the General Government was limited, and only to be exercised in certain specified exigencies. In obedience to the Constitution, Congress had power "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and *repel invasions*." The President directed the general officers of the United States army to call on the Governors of the different States for the militia, to be put under the command of these officers in any case they might require. Some of the Governors refused to obey the requisitions made in obedience to the authority vested in the general officers, so as to place the soldiery of the State under the command of officers of the regular army. They were willing, when actual invasion should occur, or there should be immediate danger of invasion, that the State militia should be ordered out to repel it and defend the invaded coast, and placed under the command of an officer of the general army. The argument used by those who were opposed to placing

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\* Amer. State Papers, vol. ix.; Ingersoll, vol. i.; Stat. Man., vol. i.

the militia under the command of officers of the national army, was, that it was inconsistent with the rights of the militia, as citizens, to dispose of them against their will and convert them into a body of standing troops; that the Constitution only contemplated their being called into military service by the Federal Government to repel invasion unexpectedly arising, when no regular troops were at hand to defend the country. It was contended that the power of the militia, the citizen soldiery of a State, was invested entirely in the Governor, except under those emergencies specified in the Constitution.

On the side of the Administration, it was contended that precedent, as set forth by the example of the earlier Administrations, upheld the right to call out the State militia; and the Governors were charged with gross neglect of duty. It was argued that upon the declaration of war the entire country was exposed to attacks from the enemy, and that for offensive as well as defensive measures the entire force of the United States should be at the service of the General Government at such time, and in such manner, as the Executive should think necessary. This is doubtlessly a subject of vast importance, and even at this day is as far from being permanently decided as in 1812.

The General Government has authority to declare war, whose duty it is to conduct the war as it may seem best for the welfare of the United States; and if it be right to leave it to the Governors of the States to say when and where the militia are to be ordered, the most disastrous results would be likely to occur.

It is not to be denied, however, that this is a dangerous doctrine, with a tendency to the most oppressive results; and when the citizen soldiery of the State is placed at the call of the President, it may be the instrument by which some ambitious man might prostrate the liberties of the country beneath the irresistible power of the Federal Government.

The incidental questions that arise under any limited form of government in reference to the prosecution of a war, is always dangerous to the Constitution; they go often beyond its stipulated grants and always require the immediate exercise of power, and that by some single person, who, to render it efficient, must act promptly and oftentimes violently.

It may be recorded, that one of the many instances of an entire change of opinion by a party as it passes from a minority

to a majority, is the opinion expressed by the Administration being so entirely different from that which the same party had advocated a few years back when striving to overthrow the administration of John Adams. Then they insisted on a strict construction of the Constitution, opposing all latitudinous construction as well as the undue exercise of powers not clearly delegated, which unfortunately marked to an alarming extent the administration of the Government before this party came into power. They then contended not only for a strict construction under all circumstances, but most strenuously for the right of authority in the State governments to act in all cases not expressly granted to the General Government.

In several States where the militia had not been called for, the legislatures, acting in view of an anticipated danger, authorized the Governors to order it out in the event of invasion or of imminent danger of invasion. Massachusetts and Connecticut were more disposed to thwart the efforts of the General Government. In reference to Massachusetts, on the application of the people near the northeast boundary of Maine, then part of Massachusetts, the Governor ordered several companies of militia to march to that frontier for defence under an apprehension of an attack from the British in New Brunswick; he had promptly ordered a sufficient force for the protection of that frontier, though he had declined to order out the militia of the State when the war was first declared.

In the State of New York, where the Administration was most unpopular, a large and enthusiastic meeting was held in the City of New York on the 19th of August, under the auspices of such men as John Jay, Rufus King, Gouverneur Morris, Judge Benson, Matthew Clarkson, and Richard Varick, all eminent for public service and moral worth, having been distinguished patriots of the Revolution. By their joint labor was prepared several strong resolutions, indicating that the Federal Government was conducted in a manner destructive to the rights of the States, endangering the Union, and crippling the trade and commerce of the country. The war was denounced in bold and unmeasured terms, and the declaration published to the world that they had no confidence in the men who had brought the country to this perilous condition.\*

1812.

\* Bradford.



This was a period of great excitement; the minds of grave and sensible men had reached to a degree of madness which resulted in mobs and the most outrageous violence, in which the peace and war parties deserve the severest censure, especially in reference to the violence and bloodshed that stained and disgraced the streets of the City of Baltimore.\*

The Governors of Massachusetts and Connecticut had denied the validity of the Articles of War, as being unconstitutional, in which they had been supported by an elaborate opinion of the Judges of the Supreme Court of Massachusetts, even to the extent that the militia could not be commanded except by State officers. There are few able men of the present day who would advocate the extreme doctrine that the power of appointing officers to the army, whose duty it was to fight the battles of the country, did not belong to the General Government, especially an army raised, equipped, and paid out of the United States Treasury.

1812. The excitement that raged in the public mind prevailed to a considerable extent in the halls of Congress. Men of talent and influence were not wanting who used every endeavor to thwart the exertions of the Federal Government in its efforts to prosecute the war. On a bill for raising volunteer corps, *Poin Dexter* contended that we could not constitutionally employ volunteer militia to go beyond the jurisdiction of the United States in the prosecution of hostilities in the enemy's country, and that no legislative act of Congress could confer such power on the President.

*Grundy* properly contended, if the Constitution forbade the President from sending the militia out of the United States, that Congress could not confer the power by legislation, the authority depending upon the construction the President might give to the Constitution.

It must be conceded, however, that *Grundy* was in error in thinking the bill unconstitutional in that provision which allows the militiaman to consent to being sent beyond the limits of the United States.

*Porter*, who had always been a distinguished advocate of the war, contended that the services of the army could not be limited, under any constitutional construction, to any geographical limits. If it be necessary for the Executive to call

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\* Hild. Hist., U. S., second series, vol. iii. p. 329.

out the militia to repel invasion, he thought they might pursue the enemy beyond the limits, until the invaders were effectually dispersed.

*Cheves* said if they may cross the line, why not go to the walls of Quebec? The principle is trampled upon the instant they pass beyond the territorial limits of the United States; nor, if this be the right construction, can the consent of the individual add anything to the powers or the rights of the General Government while he remains a member of the militia of the States.

It is to be observed, however, that the argument of *Cheves* was defective in this, that after the militia were mustered into the United States army, they were no longer the militia of the States.

*Grundy* was opposed to the bill; he read from the Virginia debates, on the adoption of the Constitution, a detached portion of the argument of *Nicholas*, in which, speaking of that article in the Constitution which gives power to Congress "to provide for calling forth the militia to execute the laws of the Union, to suppress insurrections, and repel invasions," he said they could be called forth for no other purpose than thus specified.

In the debate to which he alluded is found the argument and high sanction of the authority of *Madison*, who said the most effectual way to render such a call upon the militia unnecessary, was to give the General Government full power to call forth the entire strength of the Union whenever it might be required.

*Henry Clay* was a warm and efficient advocate of the bill, whose argument was clear and convincing. In one of the Amendments to the Constitution, he said, it is declared that a well-regulated militia is necessary to the security of a free State. But if you limit the use of the militia to executing the laws, suppressing insurrections, and repelling invasions; if the use of the militia be denied to make war, can it be said they are "the security of a State?"\*

This question ought to be considered as finally settled by the course of the General Government, as well as the acquiescence of the American people. There were three invasions of Canada, which were not only approved, but the later invasion of Mexico by the army of the United States to the

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\* *Elliott's Debates*, vol. iv. p. 446.

very capitol of that country, chiefly by volunteers, has not only won the admiration, but the hearty concurrence of every citizen.

As has been previously stated, the minds of the Democratic party had undergone a great change in regard to the navy; the narrow and unstatesman-like policy of Jefferson, which had been too strongly engrafted upon the minds of the people in this particular, had given way to more expansive views. After the brilliant success of our little navy, not only did all murmuring cease to this strong arm of the Government, but the most liberal policy was pursued in reference to appropriations in its behalf. The Administration was now convinced of the vast necessity of a navy, and in addition to the appropriations which had been made, Congress voted two millions and a half for its further augmentation. The President was authorized to build four ships-of-the-line of seventy-four guns each, six large frigates of forty-four guns, and six sloops-of-war of twenty guns. He was further authorized to purchase or procure other sloops-of-war and smaller vessels, for which purpose the further sum of two hundred thousand dollars was appropriated. It had been often said by a portion of the people that unless it was the policy of the present as well as the preceding Administration to retire from the ocean and relinquish all commercial pursuits, it would be absolutely necessary to prepare an efficient navy. These measures clearly indicated a determination not only to defend the maritime rights of the nation, but to maintain that position upon the ocean which the then unfolding commerce of the country indicated and demanded.

A brief allusion has been made to the nomination of Madison for re-election to the Presidency; the election which came on in the fall of 1812 was highly propitious to the best interest of the country; it exhibited the popularity of the measures of the Democratic party, and dissipated forever all doubt concerning the determination of the people to sustain the Administration in the prosecution of the war.

The opponents of the Administration, upon the nearer approach of the election, tried to prevail on Clinton to withdraw from the canvass, by promises that he should be the next Republican candidate; it was ascertained, however, that Clinton would not only concentrate the Federal vote upon himself, but would carry off such of the Democratic party as were then opposed to the war. The immediate managers of

the Clinton clique did not openly avow opposition to the war, but availed themselves of an *ad captandum* argument against the impropriety of Congressional nominations which had so frequently resulted in the selection of a Virginia candidate. They argued that the interest of New York, whose capital was threatened by the enemy, required the election of a man in whom her welfare could be more safely confided. Such sectional views were fallacious in the extreme, and could have no influence beyond the limited sphere of the wire-workers about New York. The electoral vote stood:—Madison, 128; Gerry, 131; Clinton, 89; Ingersoll, 86.

The States south and west of the Potomac, including Ohio, voted in a body for Madison. The New England States, with the exception of Vermont, voted for Clinton. He obtained five out of the eleven electoral votes of Maryland, which swelled his vote up to 89. 1812.

The second session of the Twelfth Congress had commenced on the 2d of November. Up to the period of its meeting, disasters had fallen heavily upon the American army. The campaign of 1812 may be said to have ended in a total eclipse, in which there was not even a gleam of consolation; in reference to which an accurate historian of the war of 1812 has said,—“Dearborn’s, the last and most unexplicable of all its miscarriages; Hull’s incomprehensible surrender, which was alarming and terrible; the battle of Queenstown, a discomfiture not entirely without valor; Smyth’s ridiculous balk; to which may be added the miserable failure of the commander-in-chief, without even the heroism of a disaster, afflicted the friends of the war with the gloomiest forebodings.”\*

I have noticed the heavy appropriations made to the navy, the recent brilliant achievements of which raised the drooping spirits of America; in addition to which, to meet the financial engagements of the Government, authority was given to issue five millions of dollars in Treasury notes, and to create a new stock for a loan of sixteen millions.

Laws were also passed for a further augmentation of the army. The volunteer system, so popular at the last session, was not only exceedingly expensive, but almost useless. It was accordingly repealed, and, as a substitute, the President was authorized to enlist twenty regiments of twelve months’ regulars, with an offer of \$16

Jan. 20,  
1813.

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\* Ingersoll.



bounty. Authority was also given to create six major-generals, and an equal number of brigadiers.

On the 24th of December the military committee, in the House, reported a bill to raise, in addition to the existing military establishment, a regular force of twenty thousand men, which, added to the existing army, would make fifty thousand soldiers for the year, unless they should be soon discharged. Among the ablest opponents of the bill were Randolph, Pitkin, and Quincy, especially the last-named gentleman, who, undeterred by what he considered the many attempts to put him down by opposition, insult, and brow-beating, denounced the Administration and opposed the bill with more than his accustomed vehemence and bitterness. The invasion of Canada he pronounced senseless, cruel, and wicked. The entire plan of the Administration met his bitterest invective, as being controlled by young politicians, fluttering and cackling on the floor of the House, half-hatched, the shell still on their heads, and their pin-feathers not yet shed,—politicians to whom reason, justice, pity, were nothing, revenge everything.

Quincy continued in this violent and abusive strain throughout the greater part of his speech. If, said he, the Government would confine itself to a war of defence, it should have his support; but for a war of conquest and annexation, whether in East Florida or Canada, he would not contribute a single dollar; nor was he to be frightened from his position by the old and stale cry of British connection, raised anew by a pack of mangy, mongrel blood-hounds, for the most part of recent importation, their necks marked with the collar, and their backs sore with the stripes of European castigation, kept in pay by the Administration to hunt down all who opposed the court. "There is nothing," said he, "in history like this war. The disgrace of our armies is celestial glory compared to the disgrace reflected on our country by this invasion—(alluding to the invasion of Canada)—yet it is called a war for glory! Glory? Yes, such glory as that of the tiger, when he tears the bowels from the lamb, filling the wilderness with its savage roars! The glory of *Zenghis Khan* without his greatness; the glory of *Bonaparte*!"

Those who opposed the sentiments advocated by Quincy were characterized "as creatures, household troops, who lounge for what they can pick up about the Government house." These quotations may serve as an indication of the

temper the opposition manifested towards the Administration and its supporters.

The Administration had many of the first men of the country to bear its burdens, and proudly sustain its interests during this trying period. Clay, Calhoun, Lowndes, Cheves, Porter, Bibb, John W. Eppes, and others, were among those whose talents were more than a match for the ablest of the Federal advocates.

To the sarcastic and contemptuous speech just delivered, Henry Clay, then Speaker of the House, was by unanimous consent the chosen weapon with which to prostrate this defiant champion of the Federalists. Among the fervent and the fearless, with the highest order of talent and unsurpassed purity of heart and patriotic devotion, no man excelled Henry Clay; whilst the memory of no member of the Congress of this day should be more deeply engraven on the national heart than this statesman, whose life will brilliantly adorn the page of American history. An impartial writer, who served long in Congress with him, and subsequently, in the evolutions of parties, was long the bitter opponent of Clay, even after he had reached the still more exalted position in the history of America, has the frankness to acknowledge that he was "prompt, clear, cogent, and authoritative in the chair; eloquent, forcible, aggressive in speech; impulsive and overbearing, yet adroit and commanding in conduct; resolute and daring in all things, without much learning, study, or polish. He was then in the flower of his age and robust health, the powerful champion of whatever he undertook, the master-spirit wherever he acted."\*

This was the friend of Madison, the friend of the war, the defender of the rights and honor of his country, who now undertook to answer the speech just delivered by Josiah Quincy, of Massachusetts. Perhaps no effort of Clay's life is superior to this speech. Where Quincy reasoned, Clay was his superior; when in the full sweep of his satire, he yet fell, like the prostrate foe beneath the scimitar of Saladin, as the fire of Clay's withering sarcasm blazed around him. The reply to this man, "whom," said he, "no sense of decency or propriety could restrain from soiling the carpet on which he treads," has scarcely a parallel in point of severity; whilst his touching sketch of the piteous condition of American sea-

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\* Ingersoll.

men, held in bonds by British tyranny, is a most captivating and affecting piece of eloquence. In a newspaper of the day, published in the City of Washington, it was said, "It is impossible to describe the pathetic effect produced by that part of it. The day was chilling cold, yet there were few who did not testify to the sensibility excited.\*

The discussion on the Army Bill continued many days, and was marked by the most consummate ability on both sides. The latitude of debate extended to the whole foreign and domestic policy of the Administration. The high and decided stand taken by Clay and others, defended the position of the Administration with such fervor and eloquence, that a new feeling seemed to be awakened in the minds of Congressmen as well as the people.

The Army Bill passed the House by a vote of 77  
Jan. 14,  
1813. to 42. In the Senate a few unimportant amendments were made, when, two days from its passage in the House, it became a law by the approval of the President.

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\* National Intelligencer.

## CHAPTER IX.

## MADISON'S SECOND TERM—THE WAR OF 1812 (CONTINUED.)

ON the 4th of March, 1813, Madison entered upon the discharge of his duties for the second term of his Administration. At 12 o'clock on the same day he delivered his Inaugural Address, which was received with rapturous applause by the vast concourse of attentive listeners assembled at the capitol, and met also the hearty approbation of the American people. Notwithstanding the heavy disasters that had fallen upon our army, a vein of animated hope and confident success pervaded this paper, which fired the minds of the people to a more strenuous effort.

"On the issue of the war," said the President, "are staked our national sovereignty on the high seas, and security of an important class of citizens, whose occupations give the proper value to those of every other class. Not to contend for such a stake is to surrender our equality with other powers on the element common to all, and to violate the sacred title which every member of society has to its protection. I need not call into view the unlawfulness of the practice by which our mariners are forced, at the will of every cruising officer, from their own vessels into foreign ones, nor paint the outrages inseparable from it.

"The proofs are in the records of each successive administration of our Government; and the cruel sufferings of that portion of the American people have found their way to every man's bosom not dead to the sympathies of human nature."

Allusion is made to the first origin of the war, its necessary and noble objects, and the ample resources at command to bring it to an honorable termination.\*

It was about this time that several important changes occurred in the President's cabinet.

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\* Second Inaugural Address, Stat. Man., vol. i. p. 307.



Eustis had resigned in consequence of the violent clamors that raged against him, which devolved the duties of the War Department upon Monroe.

Hamilton was dismissed from the Navy Department to make room for William Jones, of Philadelphia, once a ship-master; and General John Armstrong, just returned from France, was placed in the position vacated by Dr. Eustis. This was, perhaps, the most indifferent cabinet appointment Madison ever made; he was possessed of great military knowledge, but utterly unfitted by his excessive indolence for any position of labor or thought. Nothing but his high military reputation could have secured him the place, for it is said he did not enjoy the confidence of either the President, or Monroe, the most intimate of all the confidential advisers of Madison.

As the last session of the Twelfth Congress approximated its termination, nothing more of interest transpired, except a commercial bill of considerable importance, the success of which was chiefly attributed to the influence and exertions of Cheves, of South Carolina, aided by the matchless talent of his rising colleague, John C. Calhoun. It was a bill to cancel the merchants' bonds given for goods seized under the Non-importation Act, and imported from Great Britain and Ireland after the declaration of war. It was opposed by many Democratic members of Congress, but was finally carried by the close vote of 64 to 61.

This bill was of importance to the Government, as well as to a large class of mercantile men, who, upon the repeal of the British orders in council, had immediately commenced loading all the American vessels at the time lying in British ports, with British merchandise.

This exportation had been carried on for six weeks after the declaration of war had reached England, under the impression which had received encouragement by the advice of the American Chargé d'Affaires, that the Non-intercourse Act would be virtually suspended as soon as the English Government was apprised of the declaration of war.

The goods which had been shipped at an invoice value of more than eighteen millions of dollars, with about twice as much previously in the American market, had been seized and forfeited on their arrival under the interpretation of the Non-importation Act.

Many of the District Courts had decided that these goods

should be surrendered to the claimants upon filing bonds for their estimated value; it was to render this interpretation of the law uniform that Congress determined that all the goods thus forfeited should be released.

By the statute half the forfeited goods belonged to the informers. Were these bonds enforced, nine millions would belong to the Government; if they were canceled, a still larger amount would accrue in the form of duties, besides the liability on the importers of an additional forfeiture of three times the value of the goods.

The Secretary of the Treasury submitted a plan to surrender to the merchants the half to which the informers would be entitled,—which would be nine millions,—and that the Government should receive the other half. This power was invested in the President and the Secretary of the Treasury, but the President preferred the reference of the entire matter to Congress.\*

In obedience to an act passed in February, the Thirteenth Congress assembled in special session on the 24th of May. It was a source of great satisfaction to the Administration to find that its increased popularity was still manifested by an enlarged number of Democratic members. It was also a pleasing reflection to observe the uncommon array of talent which appeared at this time in the House of Representatives: it contained Clay, Calhoun, Lowndes, Pickering, and Gaston, standing in the front rank; whilst of scarcely inferior note were Macon, Benson, J. W. Taylor, Oakley, Grundy, Grosvenor, W. R. King, Kent, of Maryland, C. J. Ingersoll, of Pennsylvania, and Petkin, of Connecticut. Among the youngest and least experienced,—for it was his first session,—was Daniel Webster, then the Representative from New Hampshire, who assumed on his very first appearance in the political world, a position of undisputed equality with the most distinguished statesmen of the age.†

The attention of Congress was at once directed to the critical condition of our country; the pressing business of

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\* Stat. Man., vol. i. p. 361; Hild. Hist. U. S., second series, vol. iii. p. 389.

† The Senate stood nominally twenty-seven Democrats to nine Federalists; Giles, Lieb, and Smith, formerly distinguished leaders in the Republican party, with Germon, of New York, Stone, of North Carolina, and several others, often united with the Federalists to defeat the measures of the Administration.

the times being the financial and military conduct of the war. The strength of the Democratic party was tested by the vote Clay had received for Speaker, being 89 to 54 over Timothy Pitkin, who was put in nomination by the Federal party.

The special Message which the President sent to Congress the day after its organization disclosed a formal communication from the Emperor of Russia, for his mediation as the common friend of the United States and Great Britain, for the purpose of facilitating a peace.

The exalted character of Alexander was a sufficient pledge for the sincerity and impartiality of the offer, which was immediately accepted. The suggestion had been previously made to John Quincy Adams, Resident-Minister of the United States at the Court of St. Petersburg, and was eagerly embraced by Daschoff, the Russian Ambassador at Washington. Russia, since the French invasion, had become entirely friendly towards Great Britain, which rendered the Emperor eminently fit to act in the proposed capacity of mediator.

The brief allusion made in the Message to our finances, exhibited the receipts of the Treasury from 31st of October last up to March following, including the sums received on account of Treasury notes and of loans authorized by the last and preceding sessions of Congress, the sum of fifteen millions four hundred and twelve thousand dollars. The expenditures for the same period amounted to fifteen millions nine hundred and twenty thousand dollars; which left in the Treasury on the 1st of April, one million eight hundred and fifty-seven thousand dollars. The loan of sixteen millions authorized by the act of February 8th, had been contracted for, one million of which had been paid into the Treasury. The remainder of the loan, with the five millions to be raised by Treasury notes and the receipts from customs and public land sales, amounting in the whole to twenty-nine millions three hundred thousand dollars, the President thought would meet the demands upon the Treasury for the ensuing nine months of the year.

This view of the finances, whilst it showed that due preparation had been made for the present year, exhibited at the same time, by the limited amount of our actual revenue, which amounted to only nine millions three hundred thousand dollars, the dependence of the Government upon loans, and demon-

strated the necessity of providing more adequately for the future wants of the Government, which, in the opinion of the Executive, would be more effectually accomplished by a well-digested system of internal revenue.

The Message also makes a touching allusion to the cruelties practiced by the English, and, whilst anxious for peace, still urges a bold and vigorous prosecution of the war as the most effectual means for its attainment.\*

With the utmost enthusiasm for the war, it was not inconsistent in Madison to pursue the high and statesman-like course he did. In reference to the Russian mediation, he immediately nominated Gallatin and Bayard, both peace men, to act conjointly with John Quincy Adams, in negotiating a peace. At almost the same time, Wm. H. Crawford, then a Senator from Georgia, and a conspicuous advocate for peace, was appointed Minister to the French Court, as the successor of Barlow.

The nominations of Adams and Bayard were confirmed; Gallatin was rejected by a vote of 18 to 17, on the ground of an incompatibility with the offices of Envoy Extraordinary and cabinet Minister.

The Russian mediation was declined by Castlereagh, on account of objections to mingling the negotiation with affairs on the continent, but informed the American Government that Great Britain was willing to enter upon a direct negotiation for peace.†

The American Congress, notwithstanding the pending of the proposition for peace, was determined on a vigorous preparation for war, and boldly expressed the sentiment of the nation in denouncing the flagrant violation of all the rules of civilized warfare which England had practiced towards us. The President, in his Message to this Congress, had alluded to the English practice in this respect in the very strongest terms of denunciation; the mention of the wrongs and outrages suffered by our gallant countrymen fired the indignation of Clay, who, upon the immediate reading of the Message, called attention to that portion of its contents, remarking in the most spirited manner in reference to the British armies and their savage allies, the American Indians,

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\* President's Message, *Stat. Man.*, vol. i. p. 309.

† Castlereagh to the Secretary of State; *American State Papers*, vol. ix. p. 283.



"If they should be found to be as public report had stated them, they called for the indignation of all Christendom, and ought to be embodied in an authentic document which might perpetuate them on the page of history." On his motion, passed without opposition, that portion of the Message referring to British cruelties and outrage, was referred to a select committee, which reported through its chairman, Nathaniel Macon,—a wise, upright, and conservative man,—in a clear and forcible manner the many inhuman outrages the Indian allies of Great Britain had perpetrated upon American prisoners. The appointment of this committee was made with all due appreciation of the important and delicate trust committed to its keeping; a State paper was to be prepared under the sanction of an American Congress, which was to embody a volume of facts which will stamp ineffable infamy upon the English Government, its army, and its officers, as long as history itself shall endure, or the mild virtues of an enlightened society shall find a single votary.

Besides the eminent chairman, this committee consisted of Forsyth, Robert Wright, James Clarke, Perry W. Humphreys, Gaston, and Thomas Cooper, the two last being of the anti-war party. They were all men of the highest moral worth, and equally eminent for talent and long public service; Forsyth lived to be Governor of Georgia, Senator of the United States, Minister to Spain, and Secretary of State; Wright had been Governor of Maryland, and Senator of the United States; Clarke was afterwards Governor of Kentucky, and Gaston was a leading member of the Federal party, and afterwards Chief-Justice of North Carolina. It is proper that the members of this committee should be mentioned, that their authority may stand out as living and enduring testimony to the truth.

Under different heads, this report (which made a printed volume of two hundred pages) established the bad treatment of American prisoners; their detention as British subjects; the detention of mariners as prisoners, found in England when war was declared; the compulsory service of American seamen in British ships-of-war; the violation of flags of truce; the ransom of American prisoners from Indians in the British service; the pillage and destruction of private property in the Chesapeake Bay and neighborhood; the massacre and burning of prisoners, pillage and shooting of citizens, and burning their houses after surrendering to the British and

under their protection. The outrages at Hampton were the last mentioned in the report, in reference to which there exists ample authority for saying, that women who could not escape were hunted down by perpetrators of every indignity on their person; no help given to the wounded; the dead left unburied; the females were not only violated by these wretches, the English soldiers and officers, but slaves were encouraged to violate their own mistresses; the sick were murdered in their beds, as were the maimed and decrepid from extreme age; the pulpit and communion service of the Episcopal Church at Hampton was despoiled and robbed of the plate which bore the donor's name; to which must be added indiscriminate rape,—one woman, the victim of multiplied brutality and ravishment on many occasions.\*

Though painful, it is nevertheless the duty of history to record these brutal outrages. The English Government, always rapacious, will ever be remembered for its still darker deeds, in perpetrating, in defiance of the principles of an enlightened and Christianized civilization, acts that would disgrace the reign of Nero, and stamp even with a deeper dye the age of Heliogabalus or Cæsar Borgia; whilst in all time to come the spirit of the British Ministry of 1813 will find its kindred feeling in those Vandal outrages long since committed, though permanent upon the page of history, but to receive universal indignation; and if Castlereagh is forgotten, Cockburn and Beckwith will be linked in the record of English history as the licentious leaders of a licentious soldiery, whose disgraceful conduct would have been rebuked not only by Napoleon, but even the ruthless Attica or insatiate Zenghis.

In turning our attention to Congress at this period, we find it deeply engaged in the most important preparations for the vigorous prosecution of the war. The great need of the country, and the chief business of the Thirteenth Congress, was the adoption of the fiscal measures which the expenses of the war demanded, and more especially since the Russian mediation had been refused by Great Britain, and propositions from Great Britain for a cessation of hostilities rejected; to which may be added the increasing determination of the Executive to prosecute the war with greater vigor.

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\* Report of the Select Committee of the House of Representatives; Journal of Congress, 1813; Ingersoll, vol. i. chapter vii.

Gallatin's plan to increase our finances was to double the existing duties on imports, as had been done, and to raise the deficiency which would exist by a resort to direct taxes. The latter mode, it was feared, would be unpopular. Madison thought that taxation and war would not work well together; and the Twelfth Congress had failed in a great measure to adopt any permanent system for raising funds adequate to the wants of the Government.

The finances at this time were in a state of great embarrassment. The Treasury notes which Congress had authorized to be issued, were at a heavy discount; the loans which  
 1813. had been made were effected at a corresponding rate, whilst nearly every bank in the Union was in a crippled condition.

In the early part of this year the Government had felt very severely the pressure upon the Treasury; in truth, little or no economy had been exercised in the public expenditures in reference to the army; nor was it possible that the Executive could have acted otherwise, owing to the totally unprepared condition of the militia.

John W. Eppes, of Virginia, the son-in-law of Jefferson, and the successor of John Randolph, was at this time chairman of the Committee of Ways and Means, by whom a bill was reported, which passed the House, imposing a direct tax of three millions of dollars. The bill was very comprehensive in its details, embracing lands, houses, slaves, and nearly every article of luxury or general use appertaining to the internal commerce of the country.

The taxes on lands, dwelling-houses, improvements, and slaves, were levied in accordance with the assessed value of  
 July, 1813. the respective articles. The United States were divided into one hundred and ninety-nine collection districts, each having one principal collector and one principal assessor; this was the adjustment of a barely tolerable system of taxation, which was entirely inadequate to the war expenses.

We pass from this period to the reassembling of Congress, December 19, 1813. The reader will observe the omission to notice the military features of the war, which are foreign to the plan of this work, unless depending upon questions brought before Congress.

The Annual Message which was sent to Congress on this occasion alludes to the rejected mediation of Russia in the following bold and decided language:—"The British cabinet,

either mistaking our desire of peace for a dread of British power, or misled by other fallacious calculations, has disappointed this reasonable anticipation. No communications from our Envoys having reached us, no information on the subject has been received from that source. But it is known that the mediation was declined in the first instance, and there is no evidence, notwithstanding the lapse of time, that a change of disposition in the British councils has taken place or is to be expected. Under such circumstances, a nation, proud of its rights and conscious of its strength, has no choice but an exercise of the one in support of the other.”\*

The war, which pressed with peculiar heaviness on the New England States, was becoming still more unpopular. The newspapers of that section, through their correspondence as well as editorially, broached and kept alive the idea of a separate peace or a position of neutrality, leaving those States which chose to fight it out to bear the entire burden of the war.

The anti-war party of New England was still more exasperated at the confidential Message of the President, recommending “that an effectual embargo on exports be immediately enacted.”

The reasons given by the President in urging this measure were, the tendency of our commercial and navigation laws to favor the enemy and thereby prolong the war, supplies of the most essential kind continually finding their way to the British armies, in our own neighborhood as well as at a distance. Even the fleets that infested our coasts were constantly supplied from our own resources. This was an unwise as well as an abortive measure of the Administration. Calhoun, Cheves, and other talented members of the House opposed it. Calhoun was at the time chairman of the Committee on Foreign Affairs, and gave it a reluctant vote.

It was hurried through both Houses in secrecy. In the Senate it was apprehended that the votes of Giles, Stone, and Anderson would defeat this measure. Whilst this body, however, was in conclave, King and Gore reached Washington, and, without stopping even at their lodgings, hurried to the capitol to save this the too favorite policy of the Administration. Upon the publication of this act, it was received with dismay and consternation by the entire commercial commu-

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\* Stat. Man., vol. i. p. 312.



nity. It was, indeed, a privation, in many respects as painful as war, without any of its advantages, its excitements, or attractions.\*

This impolitic restriction upon American commerce was destined to a very brief career. It was a passive belligerency that harmed this country more than the enemy, which was now more apparent to the President on account of the changes which had taken place in Europe; for it is a striking coincidence, that on the day the victorious banner of the allies was unfurled in the capital of France, Madison recommended the repeal of the embargo by a special Message to Congress.

In this Message is to be traced the foundation of that restrictive policy which Madison too fondly favored, and at this time pressed upon Congress, by urging "as a more effectual safeguard and encouragement to our growing manufactures, that the additional duties on imports, which are to expire at the end of one year after a peace with Great Britain, be prolonged to the end of two years after that event."†

This may be considered the germ of that protective policy towards American manufactures, which, springing forth from the war, has proved the source of evil to the United States, soon to be overcome by the vigorous youth of a nation whose strength could be trammelled but for a brief period.

In connection with this subject I will remark, that upon the motion of S. D. Ingham, the House adopted a resolution directing the Secretary of the Treasury to report to the next

1814. Congress a tariff of duties. The adoption of this report (which will be noticed at the proper time) may properly be considered the first important step towards inducting the American people into that extensive system of manufactures, on which parties debated and raved for upwards of thirty years.

At an early day of the session the Secretary of the Treasury, submitting to Congress his annual report, presented the following condition of the finances:—The receipts for the year ending September 30, 1813, were thirty-seven millions and a half, which, added to the balance at the beginning of the same year, made nearly forty millions. The annual disbursements had not been thirty millions. For the

\* Ingersoll, vol. ii. p. 51.

† Special Message, March 31, 1814.

expenses of the year 1814 he allowed more than forty millions, and proposed to raise thirty millions by loan.

In about one month from this time Eppes, the chairman of the Committee of Ways and Means, presented his report to the House. Feb. 9. The chairman of this committee was a bold and honest man, with more than ordinary talent, a good speaker, with a keen and analytic mind, but far too theoretic for the practical wants of the country, and entirely unfit for the post he then occupied. In presenting his budget to the House, he proposed a loan for twenty-five millions and the issue of five millions of Treasury notes. These loans could only be raised by a most ruinous discount, and the issue of Treasury notes had proved almost a failure.

The chairman of the committee introduced his financial scheme to the House in a speech which was chiefly remarkable as an apology for not calling into immediate requisition the resources of the country, by the only certain and reliable mode then attainable by the Government,—*taxation*.

Of the twenty days' saturnalian debate which this bill afforded to nearly every speaking member of the House, it is not worthy the attention of the reader to digest. The most distinguished among the many were Webster, more remarkable for forensic than parliamentary display; Forsyth, just beginning a splendid oratorical career, which kept him for years among the most eminent speakers of Congress; and John C. Calhoun; after which the bill passed the House by a strict war-party vote of 97 to 55.

On Monday, the 18th of April, this unproductive session of Congress closed. 1814. Something, it is true, was done to invigorate the army and navy; but no law was passed to pay the army or sustain the navy by taxing the people to raise the funds; nothing but loans and Treasury notes to meet loans and interest thereon accruing. Yet it is a pleasing reflection in the history of this period, that a free people shrink less from taxes, the hardships, and perils of war than their Government.

The war was prosecuted with more vigor this year than since its commencement, and resulted in the most brilliant achievements by the American arms. Two years had been spent in abortive efforts in the field and idle debate in Congress; the expenses of the Government were enormous and increasing; for the army and navy were both to be enlarged

and rendered more efficient. Though amidst the long catalogue of disasters which had darkened the hopes of the nation, the brilliant exploits of our navy in the beginning of the war still glowed in every American bosom, and nerved with renewed energy every patriotic heart in the land. There was occasion, too, for redoubled effort on the part of the United States; heretofore we had been fighting England whilst her resources were directed to the war that devastated Europe. But now that country, who had fought single-handed against nearly half the powers of Europe, the mad ambition which she had dreaded, and at one time seemed ready to engulf her, had subsided; she had stricken from its ascendancy the star of Napoleon; she had torn the diadem from the brow of the hero of Austerlitz, and shaken to atoms the confederacy of the Rhine, and none could fear the sickly glare of that burning genius which was ultimately forever quenched on the plains of Belgium. Such had been the prowess of England, free now from every restraint and determined to concentrate her mighty energy against the United States.

She did make much greater exertion this year than ever before; her armies were largely increased, better equipped, and the resolution of the nation more excited to victory and vengeance. The veterans of several of Wellington's campaigns were sent over to America, whilst the English fleet, released from the war on the continent, hovered along our coast. Notwithstanding all this, the renewed strength of the United States was equal to its greatest necessity; and the concentrated English army in Lower Canada, which was designed to invade the United States, was mere empty show to the power, the genius, the success, that has immortalized the army that fought under Scott and Ripley, that crossed the Niagara and carried dismay to the home of the English; whilst the prowess of England, the pride of the conqueror of Napoleon, was stripped of its lustre by the unparalleled exploit at New Orleans, doubtlessly the most brilliant achievement that graces the records of modern warfare.

The National Legislature, which had been adjourned by  
Sept. 19. resolution to meet the last Monday in October, was  
convened at an earlier day by the special call of the President. The sudden change in the affairs of Europe, as well as the critical and exciting aspect of the position of the United States, demanded an early meeting of the representatives of the nation. The reasons given by the President were

that some provision might be made for the inadequacy of the Treasury, and that no delay might happen in providing for the result of negotiations on foot with Great Britain.

It was during the present session of Congress, and amidst the most brilliant achievements of our arms, that a domestic evil seemed gathering in our midst. It cannot be denied that the situation of the New England States during the year 1814 was in the highest degree critical and dangerous. For two years the service of the militia had been extremely severe; they were suddenly taken from their daily occupations, transported beyond the limits of their States, and subjected to the hardships of the camp. It was especially severe upon the militia of Massachusetts and Connecticut, from whom had been withheld all supplies, whilst these States were subjected to the most vigorous exactions. In most of the New England States, the exposure of the extensive coast, dotted with towns and villages, was alarming, the body of the militia being drawn to the distant theatre of war, and the entire burden of defence still resting upon those States to save their property, their towns, the very women and children, from a ruthless enemy.

The special action of the Eastern States, in their refusal to allow the militia to be carried beyond the limits of their respective borders, has been noticed in a previous part of this work. For several weeks in November and December, a bill was pending in Congress, authorizing the President, on the refusal of the Governor of any State to call out the militia when requested, to order subordinate militia officers immediately to march their men, as might be directed by the officers of the regular army. This bill was approved by the majority of the House of Representatives, but lost, after an animated and protracted debate, in the Senate by one vote.\*

The arguments for and against this measure have already received the extended consideration of the writer, and needs no further comment.

In view of all these considerations, under the pressure of these manifold ills, sprang the celebrated Hartford Convention, which has received most unjustly and undeservedly the most unmeasured indignation of nearly the whole community. Congress even was thrown into consternation and confusion, at designs then thought treasonable; and the pen has not been

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\* Bradford, p. 224.



inactive in attempting to write down the members of this Convention, and all who did not see the treasonable designs of this harmless body of twenty-six of the most enlightened, virtuous, and patriotic citizens of New England. Even at this day, such is the prejudice or ignorance of a large portion of the community, the mention of the name of a member of this Convention is sufficient to consign his memory to eternal infamy. But a brief allusion to its origin and history, it is hoped, will dissipate all such groundless prejudice.

In consideration of the critical condition of the several States above mentioned, memorials from a great number of towns in Massachusetts were forwarded to the legislature, asking that body to protect the citizens in their constitutional rights, and suggesting the expediency of appointing delegates "to meet delegates from such other States as might think proper to appoint them, for the purpose of devising proper measures to procure the united efforts of the commercial States, to obtain such amendments and explanations of the Constitution as will secure them from further evils."

Feb. 1814. These memorials were referred to a joint committee of the two houses of the Massachusetts Legislature, which reported against the expediency of the proposed Convention. At a subsequent day, however, the legislature adopted a resolution in favor of the Convention by a vote of 260 to 90; which simply appointed twelve delegates to meet delegates from the other New England States or any other, upon the subject of their public grievances and concerns, "and upon the best means of preserving our resources, and of defence against the enemy, and to *devise and suggest for adoption by those respective States* such measures as they may deem expedient; and also to take measures, if they may think it proper, for procuring a convention of delegates from all the United States, in order to revise the Constitution thereof, and more effectually to secure the support and attachment of all the people by placing all upon the basis of fair representation;" whereupon the delegates were elected by a vote of 226 to 67.

These proceedings were communicated, in obedience to a resolution to that effect, to the different States of the Union by the President of the Senate and Speaker of the House of Representatives of the State of Massachusetts. In the joint letter of these gentlemen the object of the Convention is expressly stated to be "to devise, if practicable, means of

security and defence which may be consistent with the preservation of their resources from total ruin, and adapted to their local situation, mutual relations and habits, and *not repugnant to other obligations as members of the Union.*"

When these proceedings reached Connecticut, the General Assembly was in session; on the second Thursday in October, a joint committee of the two houses submitted a report reviewing the evils to which the State had been subjected, approving the Convention, but disclaiming all disloyalty or infidelity to the Union. Upon the reception of this report, the General Assembly of Connecticut appointed seven delegates to meet the delegates of Massachusetts and any other of the New England States at Hartford, on the 15th day of December, "and confer with them on the subjects proposed by a resolution of said Commonwealth communicated to this legislature, and upon any other subjects which may come before them, for the purpose of devising and recommending such measures for the safety and welfare of these States *as may consist with our obligations as members of the national Union.*"

The General Assembly of Rhode Island and Providence Plantations received a copy of the same proceedings which had been sent to Connecticut and the other States; this body took immediate action thereon, and appointed four delegates to meet at Hartford, "and confer with such delegates as are or shall be appointed by other States, upon the common dangers to which these States are exposed, upon the best means of co-operating for our mutual defence against the enemy, and upon the measures which may be in the power of said States, consistently with their obligations, to adopt, to restore and secure to the people thereof their rights and privileges *under the Constitution of the United States.*"

The only other States that took any action in reference to these proceedings were New Hampshire, which sent two delegates, and Vermont, which sent one, from primary assemblies of the people.\*

This was the authority and instructions of the twenty-six virtuous and enlightened patriots who formed the Hartford Convention which assembled on the 16th day of December, 1814. George Cabot, a native and citizen of Massachusetts,

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\* History of the Hartford Convention, by T. Dwight, Secretary of the Convention, pp. 342, 351.

was elected president. He was a descendant of one of the discoverers of a portion of this continent, and was possessed of strong powers of mind and extensive acquirements, united with the strictest integrity and the purest morals; he was a distinguished patriot in the Revolution, and afterwards a Senator in Congress from his native State. In truth may it be said, this was a body of honorable men, consisting for the most part of statesmen, eminent judges and lawyers, remarkable for their position, their attainments, and their virtue.

The action of this Convention will further prove, beyond all doubt and cavil, that its proceedings were all constitutional, loyal, and right. After being in session three weeks, a report was unanimously adopted by that body, which presented a review of the war and the condition of the New England States; but not one word about disloyalty to the Union. Accompanying the report were a series of resolutions declaring, in the first place, that it be recommended to the several States represented in the Convention to authorize an application to be made to the Government of the United States, requesting their consent to some arrangement whereby the States may separately or in concert be empowered to assume upon themselves the defence of their own territory against the enemy; and that a reasonable portion of the taxes collected within said States may be paid into the respective treasuries thereof and appropriated to the payment of the balance due said States and to the future defence thereof.\*

There were other resolutions, but they bore either directly upon the request of the States to defend themselves by their own militia, or recommended some amendment to the Constitution. Thus, the Hartford Convention appears legitimate in its origin, in no respect violating the Federal compact, either in letter or spirit. The commissions under which the members assembled were scrupulously guarded against any violation of the Constitution; whilst the account of their proceedings shows that they punctiliously observed the injunctions contained in their instructions. Without one act or expression that was unconstitutional, this harmless body of intelligent gentlemen adjourned *sine die*, January 5th, 1815, and returned home to meet the execration of their countrymen, and die disliked by a large number of the American people, without cause and guiltless of any offence.

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\* Journal of the Hartford Convention.

It is worthy of historical notice, that the President and Secretary of War, fired with sudden fear at the assembling of this mighty body of warlike disturbers of the tranquillity of the Union, dispatched Lieutenant-Colonel Jessup to Hartford, to counteract its proceedings, if necessary, by force; the result of which was that Jessup, after a daily correspondence with the Secretary of War, conveying no information of the slightest importance, accepted an invitation, in conjunction with all of his officers, to a public ball; and left the capital of Connecticut no doubt in a very pleasant humor, and with no complaints against the Convention or the people of Hartford, whose generous hospitality he had so freely received.

The true and just doctrine of State rights has been sufficiently discussed in another portion of this work; yet nothing can be more striking in the history of parties in this country than the position occupied on this occasion by the distinguished hero of State rights, the author of the report of the Virginia Legislature, in 1799, in reference to the "palpable and alarming infractions of the Constitution in the two late cases of the 'Alien and Sedition Acts.'" When the Federalists of New England occupied the same position it was treason, and the father of the States-right school in Virginia, stood ready to put them down by the Federal sword.

If the Hartford Convention is condemned, how will the States-right party reconcile the position it assumed in 1832, in South Carolina, in reference to the tariff? For it is not to be forgotten that the legislature called a convention which passed an ordinance determining not to obey the laws of Congress in reference to the collection of duties at the ports of that State, and to resist if their collection should be attempted to be enforced by the General Government. If Otis, Cabot, Done, and Sherman in 1814, were guilty of opposition to the laws of their country, how will the memory of Hayne, Hamilton, McDuffie, and Calhoun escape the fierce denunciation of the Democratic party in reference to the position they and their State occupied in 1832?

Whilst the nation was becoming more and more united, and Congress was engaged with a stronger feeling of determination in passing acts for the more vigorous prosecution of the war, the Executive was not unmindful of the opportunities that offered in obtaining an honorable peace.

The letter of Castlereagh declining the mediation of Russia, nevertheless expressed a desire for the restoration of



amicable relations, and a willingness on the part of Great Britain to enter into direct negotiations. In consideration of the Russian mediation, Madison had appointed Adams, then American Minister at the Russian Court, Albert Gallatin, and James A. Bayard, Commissioners to negotiate a peace. In January, 1814, when it was believed that there was no prospect of peace, and Gallatin and Bayard supposed to be on their way home, Henry Clay and Jonathan Russell were added to the existing commission and sailed immediately for Europe. The Commissioners were arranged by the President and Senate in the following order:—Adams, Bayard, Clay, Russell, and Gallatin. The American Commissioners, were directed to proceed to Gottenburg, the place first designated, from whence the negotiation was afterwards transferred to Ghent, where they met the British Commissioners Lord Gambier, Henry Goulburn, and William Adams. The American Commissioners, with their Secretary of Legation, Christopher Hughes, and four junior assistants, established themselves in considerable style and kept house together with uncommon dignity, with the joint outfit and salary of one hundred thousand dollars per annum. Ghent, a Belgian city of seventy or eighty thousand inhabitants, between the Scheldt and Lys, and not far distant from the sea, was then occupied by British troops under the command of Sir Edward Lyons, whose only personal knowledge of America, it is said, was that his father had been killed in the battle of Bunker Hill. The Commissioners were hospitably entertained by the authorities of Ghent, with dinners and balls, the only dancing member of which was the venerable John Quincy Adams.

Gambier, the head of the British Commission, then a retired naval officer, possessed no marked character, and was of ordinary ability; William Adams was an Admiralty officer of strong prejudices and little learning; Goulburn was a young man of hereditary distinction, trained for a statesman and acquainted with the laws and rights of nations, rather as a student than a diplomatist.

On the other hand, America presented at the Congress of Ghent, a brilliant and bold array of talent. John Quincy Adams was a man of vast learning, an educated and practical diplomatist; Bayard, a distinguished debater and experienced member of Congress; Clay, eminently suited for the occasion by his indomitable firmness, great familiarity with

the history of the war, the exceeding readiness and soundness of his thoughts, which he imparted with unconquerable array of argument, brilliant force, and fluency; Russell had been *Chargé d'Affaires*, first at Paris and afterwards at London, when war was declared, where he won universal admiration by the skill and firmness with which he discharged his delicate trust; Gallatin had been for many years a favorite cabinet officer, and was a man of strong and capacious mind, eminently versed in the domestic and diplomatic history of his country, and especially familiar with all the commercial and maritime questions to be discussed. In the instructions first given to our Commissioners, the impressment of American seamen and illegal blockades were alleged as the principal causes of war; this was also stated in the report of the Committee of Foreign Relations of the House of Representatives. By an act of Congress, passed in pursuance of that report, it will be seen that the United States were disposed to exclude all British seamen from American service; but the instructions required that England should be bound by the same restrictions in reference to our seamen being forced into British service.

At a subsequent period, the Secretary of State instructed our Commissioners, if found indispensably necessary, to omit the subject of impressment; the altered condition of European affairs, in consequence of the downfall of Napoleon, was stated as the reason, and consequently it was omitted in the treaty. If it appears strange or inconsistent, the justification can only be found in the entire cessation of any cause of complaint on this score, from the date of the treaty to the present time.

The English Commissioners were exceedingly rigorous and exacting in their first communication, requiring a settlement of the existing difficulties with the Indian tribes and the guaranty of a tract of country for them, which was emphatically refused on the part of the United States; and the British Commissioners were compelled to be satisfied with a mutual stipulation for peace with the Indians.\*

Upon the final disposition of this question, arose others of more magnitude and importance in reference to the navigation of the Mississippi River. By the treaty of 1783, it had been stipulated that Great Britain in common with the citi-

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\* American State Papers, vol. ix.

zens of the United States, should forever enjoy the free navigation, from its source to the ocean, of this the Father of Waters.

The same rights were stipulated in the treaty concluded by Jay in 1794. At the date of both of these treaties Spain possessed the sovereignty of the entire western side of the Mississippi, and both sides from its mouth to the 31st degree of north latitude. From that point to the source of the river, the residue on the eastern side belonged to the United States. The English Commissioners were under the erroneous idea that the territory of his Majesty would include a small portion of this river, when the boundary line was run from the Lake of the Woods, as provided in the treaty of peace. The idea was that the Mississippi had its origin beyond the line of the British possessions, which, under the law of nations as well as by virtue of the former treaty stipulations, gave them the right to navigate this river.

The situation of the two countries at the time of the treaty of Ghent was entirely different from what it was at the date of the treaties of 1783 and 1794. Since which periods the Province of Louisiana had been acquired, which vested all the rights of Spain, in regard to the navigation of the river, in the United States. It had also been ascertained prior to the treaty of Ghent, that the British line, designated by the treaty of 1783 to run from the Lake of the Woods to the Mississippi, would not strike the river at all; indeed, since the annexation of Louisiana, the United States claimed to the Pacific. Nothing was more preposterous than this claim of the British Government, in connection with which must be noticed the position of some of the American Commissioners.

By the third article of the treaty of 1783, it was agreed "that the people of the United States should continue to enjoy unmolested the right to take fish of every kind on the Grand Bank, and on all the other banks of Newfoundland; also in the Gulf of St. Lawrence, and all other places in the sea where the inhabitants of both countries had used at any time to fish; and also that the inhabitants of the United States should have liberty to take fish of every kind on such part of the coast of Newfoundland as British seamen might use, (but not to dry or cure the same on that island,) and also on the coasts, bays, and creeks of all other of his Britannic Majesty's dominions in America; and that the Ame-

rican fishermen should have liberty to dry and cure fish in any of the unsettled bays, harbors, and creeks of Nova Scotia, Magdalen Islands, and Labrador, so long as the same might remain unsettled; but so soon as the same, or either of them, should be settled, it should not be lawful for the said fishermen to dry or cure fish at such settlement, without a previous agreement for that purpose, with the inhabitants, proprietors, or possessors of the ground."

At an early day after the opening of the negotiations, the British Commissioners gave notice that they would not renew our liberty to catch and cure fish within their exclusive jurisdiction, without an equivalent.

The American Commissioners were divided in reference to the question, whether the above clause in the treaty of 1783 had been abrogated by the breaking out of the war, or whether from the peculiar nature of the treaty, being one resulting in the severance of an empire and the acknowledgment of a new power, the stipulation did not survive the war.

All of the Commissioners thought, except Mr. Adams, that the stipulations ceased with the war. It would have been very instructive had the learned diplomatist favored the world with some reason or authority for so important a doctrine, and one of such special interest to the United States; in which, had he been successful, the valuable right of catching and curing fish on the shores of the Gulf of St. Lawrence, which had been used from the earliest times, would still have been retained to the New England people.

In order to dissipate all doubt, as well as to secure this privilege, Gallatin proposed to insert an article providing on the one hand for the renewal of the rights and liberties of the fisheries, and on the other the right to the navigation of the Mississippi to Great Britain. The keen and practical mind of Clay saw at a glance the folly of such an agreement, to the introduction of which he instantly objected. After an animated discussion, principally between Clay and Gallatin, Messrs. Adams, Gallatin, and Bayard, were found to be in favor of yielding the anxiously-desired privilege by Great Britain of navigating this great American river, communicating as it does with the richest and most productive area of the continent. The bold and manly heart of Clay could not allow him to sign any treaty giving, in comparison even with the New England fisheries, such a right; and with that inherent readiness and promptness which belonged to the man,



he emphatically refused to give the treaty the sanction of his name, if it contained such a clause; which probably induced Bayard to change his position and vote with the minority, and, uniting with Clay and Russell, save the country from the degrading position it would otherwise have assumed, if by possibility the treaty could have received the sanction of the President and Senate.\*

Without casting the slightest imputations upon the firmness, patriotism, or skill of the eminent statesmen who formed the American commission, it is but simple justice to say there was one man more inflexibly resolved on yielding nothing—"not even one inch of the waters of the Mississippi"—than the rest, and that man, with ultra-montane feeling, stood like the Alleghany of his own native State, utterly immovable; and that man, as Lord Castlereagh called him, was the "Kentuckian," who, if with less cultivation than his accomplished colleagues, was possessed of that genius which, either in war or peace, in oratory or diplomacy, will override the highest endowments of culture.

The majority of the Commissioners, upon the accession of Bayard, not to oppose the proposed article in reference to the navigation of the Mississippi, adopted a clause in their note to the British Commissioners, prepared by Clay, totally refusing to treat upon the point proposed. The most consummate skill was manifested throughout by the American Commissioners, and their firmness no doubt was the cause of England's receding from her very haughty, exacting, and overbearing position. Every point for which the United States contended was secured, except a stipulation on the right of impressment, in reference to which our Commissioners had been instructed to preserve silence, if necessary; but it must be remembered that the silence which was preserved was granted at the express desire of the British cabinet, who first asserted and exercised the right, and a proposition to "omit any stipulations on this subject," not only was a clear backing out on the part of Great Britain, but obviated any necessity for a treaty on this subject; whilst the subsequent scrupulous regard to our rights in reference to this great cause of complaint, may now be regarded as a great triumph of the war.†

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\* Letter of Clay to Russell, July 9, 1822.

† American State Papers, vol. ix.

On the 24th of December, 1814, the treaty was signed and immediately dispatched to the United States. As soon as its provisions were known at London, the press and many distinguished politicians, with a large portion of the community, readily and fearlessly expressed their condemnation of it. One of the leading papers in London called upon the Prince-regent not to ratify "so disgraceful a treaty;" another said the treaty forms a deplorable contrast with the high-sounding threats of a part of the public press; whilst in the House of Lords, even Wellesley, known for his implacable hatred to America, denounced the British cabinet for advancing claims they could not sustain, and confessed the "astonishing superiority" the American Ministers had shown over the British.

On the 13th of February, 1815, the treaty reached the City of Washington. It was received at the seat of Government with great satisfaction, and joyously throughout the country, as it was known "that not an inch was ceded or lost."

The welcome news of peace reached Washington during the session of Congress, and amidst its busiest preparations for a more vigorous prosecution of the war. By Feb. 20. special Message the President communicated the treaty to the Senate, by whom it was immediately ratified. "Peace," said the President, "at all times a blessing, is peculiarly welcome, therefore, at a period when the causes of war have ceased to operate; when the Government has demonstrated the efficiency of its powers of defence, and when the nation can review its conduct without regret and without reproach."

After the negotiation of peace had been confirmed a commercial treaty was formed at London, signed on the part of the United States by Adams, Gallatin, and Clay. This was exclusively a commercial treaty, but not more favorable to the United States than Jay's, made in 1794.

The immediate effect of the war had been disastrous to the commerce and finances of the United States, besides the loss of about thirty thousand lives, which may be considered no large number, taking into consideration the battles fought and the duration of the war.

The cost of the war has been estimated at one hundred millions of dollars. The loss of life as well as the cost of war to the British was much greater; for during the war the Americans had captured on the ocean and lakes 50 British

vessels of war, mounting 886 guns; 2360 merchant-vessels, mounting 8000 guns, of which 345 were war-ships, 610 brigs, 520 schooners, 135 sloops, and 750 vessels of various sizes, making altogether 2416 vessels, with their cargoes, provisions, and specie, and about 30,000 prisoners of war; to which may be added 1610 merchant-vessels, which arrived in port or were destroyed, and 29 ships-of-war wrecked on the American coast, mounting about 800 guns. The loss on the part of the United States was much smaller, being, as was estimated, the President, Essex, and Chesapeake, two sloops-of-war, six brigs, and fourteen smaller vessels and gun-boats, carrying a total of 350 guns.

A statement made to the House of Commons from the Admiralty Office, makes an estimate of 1407 merchant-vessels taken by the British or destroyed, and 20,961 American prisoners of war. The Americans lost, besides this estimate, two other frigates, and one sloop-of-war.\*

But a few days of the session of the Fourteenth Congress remained after the reception of the news of peace and the ratification of the treaty, which were devoted to the adjustment of national affairs to the new condition of the country. The act imposing discriminating duties on foreign vessels, and the lingering features of the Non-intercourse and Non-importation Acts were speedily repealed. Large appropriations were made for rebuilding the public edifices at Washington, which British barbarism had laid in ashes; and whilst the opposition to it by a few members of Congress was alike futile and impracticable, the proposition of Rhea, a representative from Pennsylvania, deserves a place in history, if but to stamp a burning and indelible disgrace upon the brow of the most ruthless enemy that ever waged a civilized war. He proposed to encircle the ruins of the capitol with an iron ballustrade, where the green ivy might grow, and the perpetual inscription, "Americans, this is the effect of British barbarism!" might in after ages meet the eye of the American patriot.

Our military establishment was immediately reduced; the President recommended 20,000 men for the peace establishment, the House proposed 6000, the Senate 15,000, when, by way of compromise, it was fixed at 10,000 men. The direct taxes were retained and the navy kept up for the pur-

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\* Niles's Register, vol. ix. 325; Stat. Man., vol. i. 377.

pose of protecting our commerce from the piratical hands of the Algerine cruisers.

Upon the eve of the session steps were taken to re-establish our diplomatic relations with many of the European courts. Eustis was sent Minister to Holland, John Quincy Adams Minister to Great Britain, Gallatin to France, Bayard to St. Petersburg; the latter being then in Europe, hastened home but to close his eyes in death, and rest beneath the soil of that land which had ever been the object of his love, and with which his virtue and his fame are imperishably blended. Don Onis had at length been received as Minister from Spain, and Irving was sent to that country to renew our diplomatic relations, which for some time had been in entire abeyance.

In consequence of the late fire and destruction of the capitol, several private individuals had erected on Capitol Hill a temporary building, which, though indifferently adapted for the use of the National Legislature, had been leased to the Government; and here the Fourteenth Congress opened its session, charged with the heaviest and Dec. 4,  
1815. most important duties to the country. Clay, just returned from Europe and again a member of Congress, was elected Speaker by 82 votes out of 122 cast, on this occasion. Most of the members had been elected during the war, and the old party distinctions had nearly subsided. Out of 65 Federalists elected to Congress, only 10 were found to vote against the Administration candidate for the speakership. The return of peace had dissipated all ground of opposition to Madison, and the present aspect of the House exhibited the popularity of the Administration.

In the Senate there were 24 Republicans to 12 Federalists, in which body the President was supported by some of the first men of the age, among whom is to be recognized Barbour, of Virginia, Macon, of North Carolina, and Campbell, of Tennessee; whilst of the 117 Democratic members in the House, were Taylor and Southard, Wright and Pinckney, Calhoun and Lowndes, Forsyth and Wilde, and many others of equal talent and influence. In opposition to the Administration, among the ablest may be considered Webster, John Randolph, Gaston, Cyrus King, Sargeant, and Grosvenor, of the House; with Dana and Harper, Mason and Gore, of the Senate.



We had just passed through a war with the most powerful nation on earth, and though waged successfully and ended honorably, it had not only involved the country in extreme suffering but had left the finances in considerable embarrassment and thrown confusion and discredit upon the currency; these were subjects of vast magnitude and vital interest. The war had wrought many new ideas, and, in some respects, a change in the policy of the Administration; the weapons of war were laid aside, and the arts of peace were revived. Manufactures which had necessarily sprung into existence during the war, were then in a condition requiring aid from the hands of Government, or they would sink, and with their fall ruin thousands of our energetic citizens. Commerce was again to unfold its silvery wing to every breeze, and agriculture to supply the domestic market and fill the granaries of Europe.

Our citizens were restricted in many respects to the plainest and often a scanty supply of clothing, or subjected to the highest and most exorbitant prices; for a time, now that war had ceased, we would have to look to the foreign market for our supplies, which, unfortunately, created rather too strong a feeling for their protection. But to increase the gloom that gathered over us, our banks had suspended specie payments, and almost every dollar had gone to Europe to buy the necessities of life at exorbitant rates, not one cent of which found its way back; whilst exchanges upon England stood at twenty and twenty-five per cent. above par; and if possible to heighten the distress of the mercantile community (which affects every relation of life and every person) the issue of the banks amounted to over one hundred millions of dollars, with an estimate of about fifteen millions of specie in the country. Such was the condition of the country over which Congress was now to legislate, and in its wisdom and discretion to provide adequate means for paying off the national debt. In a clear and concise Message, the President communicated to Congress the condition of public affairs. The embarrassments arising from the want of a uniform currency had not been diminished since the adjournment of the last Congress, which induced the President to recommend the establishment of a national bank, though he had vetoed a bill for that purpose at a very recent period. Some modification had also taken place in his opinions upon the tariff, and he did not hesitate to call the attention of Congress, "in adjusting

the duties on imports to the objects of revenue," to the influence of a tariff on the domestic manufactures. Madison was not a protectionist in the most objectionable aspect of the term; nor had the principle at this day reached the extent that it ultimately attained. There were circumstances which had given a powerful impulse to domestic manufactures, under which many of our citizens had embarked with the investment of large capitals; if these establishments were left to contend with the influx of foreign articles when Europe was free from the distractions of war, the sudden fall of the price and the ultimate suspension from business would be inevitable ruin. It does not appear, however, that Madison favored a step beyond the "objects of revenue" in laying duties which might incidentally give protection to such articles as were subject to casual failures, and for which we were dependent "on foreign supplies."

The subject of internal improvements was also recommended to Congress; but upon this point the Message was exceedingly vague and uncertain, being applied only to *roads* and *canals*, without further distinction or explanation.

The receipts of the Treasury for nine months ending the 30th of September last, were estimated at twelve millions and a half of dollars; the issue of Treasury notes during the same period amounted to fourteen millions; and there was obtained upon loans nine millions; which, added to the million and a half in the Treasury on the 1st of January, and thirty-three millions paid up to the 1st of October, left a balance in the Treasury, according to the estimate of the President, of three millions. The national debt was ascertained to be, on the 1st of October, one hundred and twenty millions of dollars.\*

Dec. 1815.

Notwithstanding the occurrence of peace, which would doubtlessly curtail the expenses of the Government, there were great demands upon the Treasury, and peculiarly embarrassing on account of any reliable currency with which to collect the public dues. The expenditures for the present year, according to the estimate of the Secretary of the Treasury, would not be less than fifty millions of dollars, whilst the expenses of 1816 would reach beyond forty-three millions, which could not be met under

1815.

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\* Madison's Message, Dec. 5, 1815.

the existing tariff, as the double duties would cease in February of that year.

There was at this time new and great wants and interests springing up at home, throwing the former topic of dispute in the shade, and calling for the highest efforts of patriotism and statesmanship which the country possessed. Among

1816. those who stood boldly conspicuous for the brilliant

and lasting service of their country, were Clay, Calhoun, Webster, Lowndes, and Cheves. It is a matter of interest to observe the little difference that existed among those distinguished characters at this time. No broad or general lines of party difference is discernible immediately after the assembling of the Fourteenth Congress, at which time, however, the great measures brought forward,—the bank, the tariff, and internal improvements,—were the subjects on which the members divided, without reference to previous party organization, from sectional considerations or individual convictions. On the bank and internal improvement questions, no systematic difference was disclosed between the Northern and Southern sections of the Union. In reference to the tariff it was perceived that the issue was upon protection to manufactures; a difference at once sprung up which has been continued with bitterness and angry discussion to a very recent period.

John C. Calhoun reported a bill from the committee on the national currency, to incorporate the subscribers to the bank of the United States; annexed to which was a letter from the Secretary of the Treasury, submitting an outline for this powerful institution, with a capital of thirty-five millions of dollars. The Bank-bill passed the House by a majority of nine votes and the Senate by a majority of ten, two members (Messrs. Bibb and Thompson) being absent on account of ill-health. On the 10th of April, the President signed the bill, though the bank did not commence operations until the next year.

The sudden transition of the Republican party in the year 1816 from being opposed to the bank to the position of being its very father, surpasses all comprehension. Clay, the distinguished leader in the House, who formerly opposed with all his talent and energy the bill which Madison vetoed, because it was unconstitutional, now sustained with all his powers a similar bill, which, in a very short period, Madison found to be

constitutional. Expediency is the practical code of most American statesmen; the doctrine of strict construction and constitutionality is but too frequently estimated by the standard of party predilection. The constitutional bearing of every question must be permanent, yet statesmen have but too often allowed the expediency doctrine to control all other questions. The bank gave no satisfaction to its friends in the first few years of its operation, and but little aid to the commercial community; an occasional loan, with the annual tribute of a million and a half bonus to the Government as a tax upon its life, may have been a temporary relief to the Government; but its future history will present an engine of dreadful commercial destruction, which will long be borne upon the memory of the American people. The first bank, which was incorporated in 1791, and ushered into existence under the auspices of the Federalists, was opposed by Jefferson; and the little Republican party, just struggling into existence, opposed it not only as inexpedient and dangerous, but as unconstitutional.

In 1811, when the effort was made to recharter the bank, the Republican party, then in the majority, wisely defeated it; Clay was in the Senate, and the "vagrant power," which he called it, to establish a bank "had wandered throughout the whole Constitution in quest of some congenial spot whereon to fasten." Madison, who had been a member of the Convention that formed the Constitution, and author of the resolutions of 1798 and 1799, was remarkable for an adhesion to a strict construction of the Constitution, had opposed all previous authority and despised all precedent. Whilst the Republican party surrendered the Constitution upon the plea of necessity, Madison did it upon the ground of *precedent*.

Some of the true and firm old Republicans opposed with great energy and bitterness not only the Bank-bill, but the lamentable giving way of James Madison on a point on which he had before shown the greatest firmness. Among the most distinguished opponents of Madison at this time was John Randolph, who did not hesitate to charge this act of inconsistency to the weakness of old age, as he applied to him the well-known quotation—

"From Marlborough's eyes the streams of dotage flow,  
And swift expires a driv'ler and a show."



But this, the reader will understand, as being more the indulgence of a heated temper than the true feeling of the country towards the sage of Montpelier, who died respected and admired by every party.

The most important feature in the Bank-bill, if not the only one that saved it from immediate destruction, was the adoption of the specie resolution, by which from and after the 20th of February, 1817, all debts due to the Treasury were to be paid in gold or silver, in Treasury notes, the notes of the bank of the United States, or notes of banks which pay in gold or silver on demand. This clause worked well for a while, and was the means of a considerable saving to the Treasury. All the New England banks had at the time suspended specie payments, but such was the miserable condition of the currency, that their depreciated bills passed by a general consent from hand to hand, and the public money even had to be collected in this degraded medium. The country was indebted to Daniel Webster for this salutary measure, who, though opposed to the bill, introduced this clause somewhat against the consent of a portion of the Republican party; but by his commanding talent and profound knowledge of the financial interest of the country, succeeded in making the bank a better institution than its very fathers did when it was first proposed to the National Legislature.

At the present session of the Fourteenth Congress was introduced a system of legislation which the statesman or historian must alike approach with the most mature consideration, which, in its immediate as well as subsequent operation, was the most momentous ever offered to the consideration of Congress. Through the influence of that most unfortunate experiment, the restrictive system which sprung from unwise councils during the war, domestic manufactures had assumed an importance in some of the States, which now, the war being over and the restrictions removed, left those who had embarked in such enterprises from sheer necessity, suppliants for relief at the hands of the Government. The amount of capital involved in domestic manufactures had suddenly reached to a considerable extent. In the year 1800, only five hundred bales of cotton had been worked up in the United States; in 1805, one thousand; in 1815, the number had reached ninety thousand, employed ninety-four thousand operatives, and a capital of nearly forty-two millions of dol-

lars.\* This is but a faint picture of that vast, gigantic, and incalculable interest that has since pervaded the country. Against the full and rapid development of the manufacturing interest of the United States, no man can say anything; yet it is the duty of impartial history to trace the origin of that system which brought them into such sudden and plethoric existence, and also to examine the policy of those measures which impelled the American people in a certain course of business, which, if left to the unfettered laws of trade, would certainly have been postponed for a time.

With the tariff of 1816, containing the *minimum* duty on coarse cotton fabrics, will be found the corner-stone of the protective system. In the Northern States some advance had been made in the manufactories, but no great interest had as yet sprung into existence, asking the protective hand of the Government. Navigation and foreign trade were the pursuits of the citizens of the North, and they feared these interests would suffer from the attempt to build up manufactures.† It is a striking fact that this principle, afterwards the means of building up the magnificence and wealth of the Northern States, which they at first opposed, was first recommended by a Southern President, and ardently supported by Southern statesmen, with Calhoun at their head, who, thinking it of the highest interest to the growers of the great staples of Southern agriculture, advocated the protective tariff of 1816; and an equally well-known fact in its history is the sudden change which the South assumed when it was discovered, too late, that it warred upon Southern interest, but was the path to Northern wealth and power, which in a few years made it their favorite pursuit and placed the statesmen of their section from being its bitterest opponents, in the front rank of its champions and defenders. Calhoun and Webster, the most distinguished statesmen and more identified with this measure than any other great effort of American legislation, not only changed places in reference to the principle of protection to American industry, but with them the North and the South alternately occupied the same ground,—the one of opposition, the other of advocacy of this very question. Nor is it a ground of just reproach to either;

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\* Report of the Committee on Manufactures in the House of Representatives, 1816; Niles's Register, vol. ix.

† Memoirs of Webster, by Everett, p. 43.

Webster saw that the people he represented had turned the course of legislation to their own advantage, and unforeseen events had made it the sure pathway to them of wealth as well as political power, that manufacturing was eminently suited to the genius of the great section of which he was the first representative man, in talent and influence, in the whole country. Calhoun soon saw, with the eye of a statesman and the wisdom of a philosopher, that the Republican party, with Madison at the head, had placed the South in an unfortunate position, as far as making it tributary to the North and excluding to a great extent the markets of Europe, were concerned; and from necessity he, with many other Southern statesmen, were compelled to oppose the further continuance of a system that preyed with vulture-like voracity upon their dearest rights in a pecuniary as well as a political sense.

1816.

Lowndes, a very distinguished statesman, and eminent with a reputation for financial talent, was chairman of the Committee of Ways and Means to whom had been committed so much of the President's Message as related to the revenue.

Jan. 9.

This committee reported in favor of the plan of revenue contained in the report of the Secretary of the Treasury, with very slight and immaterial exceptions. This report, as well as that submitted by the Secretary of the Treasury, whilst recommending certain modifications of the tariff for revenue, was silent on the subject of protection, though in some instances enormous duties were recommended.\*

The Secretary of the Treasury had been called upon by a resolution of the House to submit a plan for a tariff, which he accordingly did at great length, showing considerable labor and research on the part of the Hon. A. J. Dallas, but exhibiting very little skill and foresight as a financier. In framing the propositions which he submitted to Congress, he made the following divisions which would come under consideration in adjusting a general tariff,—

1st. The object of raising, by duties on imports and tonnage, the proportion of public revenue which must be drawn from that source.

2d. The object of conciliating the various national interests

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\* Niles's Register, vol. ix. pp. 261, 356.

which arise from the pursuits of agriculture, manufactures, trade, and navigation.

3d. The object of rendering the collection of the duties convenient, equal, and certain.

The mind of the Secretary was in advance of the ideas of those who lived in the same section of the Union with himself; he was evidently strongly inclined to protection. In reference to the second point of consideration embraced in this report, he not only says there are few if any Governments which do not regard the establishment of manufactures a chief object of public policy, but in the schedules submitted along with the report at the same time, his recommendation was to raise the duties eighty per cent. *ad valorem* upon the aggregate products of the existing duties.

In the classification he proposed was the following scheme, with an enumeration under each head of the articles properly belonging thereto:—

1st. Manufactures which are firmly and permanently established, and which wholly, or almost wholly, supply the demand for domestic use and consumption.

2d. Manufactures which, being recently or partly established, do not at present supply the demand for domestic use and consumption, but which with proper culture are capable of being matured to the whole extent of the demand.

3d. Manufactures which are so slightly cultivated as to leave the demand of the country wholly, or almost wholly, dependent upon foreign sources for a supply.

The second class embraces those articles which he clearly saw were the great objects of governmental nursing and care, but upon articles of the third class they had not sufficiently interested the capitalists of the country as to be worthy of much notice by the Government.\*

When the Tariff-bill was introduced into the House, a severe and most important struggle took place upon the duties on cotton and woollen manufactures. The mercantile representatives uniting with the great body of Federalists, who, unmindful of the striking similarity between the report of Dallas and that which had been submitted to the consideration of Congress by Alexander Hamilton, and now quite popular with the Republican or Democratic party, were the

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\* Report of A. J. Dallas, Secretary of the Treasury, Feb. 12, 1816; Niles's Register, vol. ii. p. 437.



chief opponents of the bill, with an occasional help from a few old-school Southern Democrats, the first and foremost of whom was John Randolph.

The cotton-growing States, whose interest seemed to be most specially represented by John C. Calhoun, did not come out as decidedly in favor of protection to that article as it was supposed they would have done, and by some unaccountable change of sentiment, the Northern States, those supposed to be mostly interested in commerce and navigation, gave a larger vote in behalf of protection.

It is strange, but nevertheless true, that whilst the leading representative from the South first unfurled the banner of protection, which was most violently assailed by some of the first statesmen of the North, that when the final vote was taken in the House, it was passed by a vote of 88 to 54, the largest number of yeas being from the North and the largest number of nays being from the South; in Virginia, only seven out of twenty-three voted for it; North Carolina unanimously voted against it; in South Carolina, only four out of nine voted for the bill; in Georgia, three out of six; in Tennessee, three out of six; and Thomas Robertson, then the only Representative from Louisiana, voted also against it. Among the Northern Representatives the vote was 59 yeas to 25 nays.

April 19. In the Senate the bill passed by a vote of 25 to 7, a majority of Northern Senators voting for it,—Barbour, Mason, Turner, Goldsborough, and Harper, of the South, voting against it.\* On the 17th of April this bill received the approval of James Madison.

Henry Clay, the early and constant friend of protection to American industry, Lowndes, and Calhoun, all boasted that protection was the purpose of this bill; whether the rates fixed were insufficient, or whether the nation would suffer such legislation, as it was not yet ready to receive, is at this time immaterial; sufficient is it to know, that many of those establishments, designed to be fostered by the Government, languished and perished under the competition of the heavy importations that were kept up after the close of the war.

1816. The diplomatic relations of the United States and Spain, which had been somewhat overlooked, and for a while suspended, were brought under discussion

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\* Journal of the House, April 5, 1816; Journal of the Senate, April 19, 1816; Niles's Register, vol. ix. p. 280, vol. x. pp. 101, 150.

during the course of this year. West Florida was occupied by the United States troops, which elicited a remonstrance from Don Onis, the Spanish Minister, who insisted that this portion of the territory be surrendered to his Catholic Majesty. The direct and official relations between the two Governments had been broken off since the year 1808, during which period the territory alluded to had been reduced into the possession of the United States. The communication of the Spanish Minister further presented, that expeditions were fitting out on the Mississippi against New Spain, and demanded that no intercourse should be allowed between the United States and the revolted Colonies of the King of Spain. The communication of Don Onis was not only passionate and violent, but in extremely bad taste; to all of which the Secretary of State replied with becoming dignity and force. After a brief and pointed allusion to the treaty which a few years back had been entered into between Spain and the United States, providing indemnity for the unlawful seizure and condemnation of American vessels in the ports of Spain, he noticed the several points made in the communication of this restless and uncouth diplomatic functionary.

In reference to the occupation of West Florida, there was but one answer to be given,—that the United States claimed by cession, at a fair equivalent, the Province of Louisiana, as it was held by France prior to the treaty of 1763, extending from the Perdido, on the eastern side of the Mississippi, to the Bravo or Grande, on the western; to the territory within these limits the right of the United States was established by treaty.

In reference to the second demand,—that the troops that were being raised to fight in behalf of the revolted Provinces of Mexico should be arrested and tried,—Monroe denied that the men engaged in the expeditions alluded to were American citizens; that the expedition assembled by Toledo consisted of Spaniards and Frenchmen, living in the wilderness between the settlements of the United States and Spain, and not within the settled parts of Louisiana, and beyond the actual operation of our laws; and that this Government could not be called upon to surrender the inhabitants of Spain or of the Spanish Provinces, on the demand of Spain, such people not being punishable by the laws of the United States for acts committed beyond their jurisdiction, the case of pirates alone excepted. Yet the Secretary of State fully

and manfully met the question as far as it was within the operation of our laws and the principles of national jurisprudence, by assuring the Spanish Minister that whenever American citizens were detected in such enterprises they would be brought to immediate trial.

In reply to the third demand made by the Spanish Minister,—the exclusion of the flag of the revolted Provinces from our ports,—the Secretary of State justly and correctly contended that, in consequence of the unsettled state of many countries and repeated changes of the ruling authority in each, there being at the same time several competitors, and each party bearing its appropriate flag, the President thought it proper to give orders to the collectors not to make the flag of any vessel the criterion of its admission into the ports of the United States. This Government took no part in the convulsions which shook and agitated and destroyed other powers, and it was consistent not only with our interest, but with the received and just principles of public law, to admit into our ports vessels of all countries under whatever flag they sailed, piratical ones alone excepted. Whether the able and dignified State paper of Secretary Monroe satisfied or convinced the querulous Ambassador or not is unknown; the Spanish difficulties were not agitated again for several years, when Monroe had been transferred from the cabinet to the Executive Chair. It is a fundamental policy of this Government, recognized and practiced from its earliest days, to maintain the strictest neutrality in reference to the quarrels of foreign nations, and of this the Spanish Government was assured in reference to her revolted Provinces in South America; yet there was no impropriety and no injustice in trading with them, be their political allegiance bound to a Spanish King or *in transitu* from despotism to freedom.\*

1816. To the second session of the Fourteenth Congress, which assembled on the 2d of December, the Chief Magistrate of the United States addressed his eighth and last Annual Message.

In directing the legislative attention to the state of the national finances, it was a subject of gratification to find that within the short period which had elapsed since the return of peace the revenue had largely exceeded the current demands upon the Treasury. It was estimated that during the year

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\* Bradford, p. 240; American State Papers, vol. xi. p. 54.

1816 the receipts of the revenue at the Treasury, including the balance at the end of the year and excluding the proceeds of loans and Treasury notes, would reach the sum of forty-seven millions of dollars. The amount, however, received was about thirty-eight millions, which left at the end of the year a surplus of about nine millions in the Treasury.

The operations of the Treasury continued to be obstructed by difficulties arising from the condition of the national currency; the bank had as yet done but little good, which could be but temporary, though the President thought it had been organized under "auspices the most favorable."

The floating debt of the Treasury notes and temporary loans, was soon to be discharged. The aggregate of the funded debt did not exceed one hundred and ten millions of dollars. The annual expenses of the Government,—civil, military, and naval,—were estimated at less than twenty millions; the permanent revenue from all sources was estimated to exceed twenty-five millions.

It was upon this general view that the President thought there was only wanting to the fiscal prosperity of the Government, the restoration of a uniform medium of exchange.

The political views which the President at this time entertained were generally, though not always, approved by the Democratic party. The policy he recommended differed in some respects most materially from the views hitherto expressed. Protection to domestic manufactures was urged as deserving the especial guardianship of the Government. The bank was a favorite scheme; and, indeed, it did appear that many of the repudiated doctrines of the Federal school had no small occupancy in the mind of the Executive.

In view of an approaching retirement from the chief magistracy of the nation, Madison,—a beautiful and effective writer, always forcible, brilliant, and clear,—drew a striking and philosophic picture of the great duty and destiny of the country he had faithfully served and ardently loved; in which he exhibited the character of the American people in their devotion to true liberty and to the Constitution, which is its palladium. Sure presages that the destined career of the country will exhibit a Government pursuing the public good as its sole object, and regulating its means by the great principles consecrated by its charter, and by those moral principles to which they are so well allied; a Government which watches over the purity of elections, the freedom of speech and of the



press, the trial by jury, and the equal interdict against the encroachments and compacts between religion and State; which maintains inviolable the maxims of public faith, the security of persons and property, and encourages, in every authorized mode, that general diffusion of knowledge which guaranties to public liberty its permanency, and to those who possess the blessing the true enjoyment of it; a Government which avoids intrusion on the internal repose of other nations, and repels them from its own; which does justice to all nations with a readiness equal to the firmness with which it requires justice from them; and which, while it refines its domestic code from every ingredient not congenial with the precepts of our enlightened age, and the sentiments of a virtuous people, seeks by appeals to reason and by its liberal examples, to infuse into the law which governs the civilized world a spirit which may diminish the frequency or circumscribe the calamities of war, and meliorate the social and beneficent relations of peace; a Government, in a word, whose conduct, within and without, may bespeak the most noble of all ambitions,—that of promoting peace on earth and good-will to men. Such were the lessons of truth which Madison addressed to the last Congress which assembled under his administration; and long may they be remembered and appreciated by a free and virtuous people!

Under that extensive power of the free principles of the American Constitution, another State was added to the bright galaxy of the Union,—Indiana, which had formed a part of the Northwestern Territory till January, 1801, when it was, by act of Congress, erected into a Territorial government, with the usual power and privileges. Under this form of government it remained till 1816, when the population being sufficient, Congress passed a law authorizing the people to  
 1816. establish a State government. A constitution was adopted on the 29th of June, 1816, and on the 6th of December was admitted into the Union as the nineteenth State.

It is a lesson of striking import, which should be referred to with pride and satisfaction, to observe the easy and undisturbed manner in which the State of Indiana was brought into the fellowship of union with the other States. Free from party feeling and sectional strife, Morrow, the Senator from Ohio, from the select committee to whom was referred the resolution for admitting the State of Indiana into the

Union, reported the simple preamble and resolution that,—  
“Whereas, in pursuance of an act of the Congress of the United States, passed on the 19th day of April, 1816, entitled ‘An act to enable the people of the Indiana Territory to form a State government, and for the admission of that State into the Union, the people of the said Territory did, on the 29th day of June in the present year, by a convention called for that purpose, form for themselves a constitution and State government; which constitution and State government, so formed, is *republican*, and in conformity to the principles of the Articles of Compact between the original States and the people, and the States in the territory northwest of the River Ohio, passed on the 23d day of July, 1787;’ therefore be it

“*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That the State of Indiana shall be one, and is hereby declared to be one of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatsoever.”

This was all the legislation the constitution required. The only condition to be exacted was a republican form of government, which being complied with, Congress had no legitimate right to hesitate for a moment about its admission as a State, upon an equal footing with the other members of the Confederacy.\*

The allusion in the preamble to the ordinance of 1787, was rendered essential for the obvious reason, that the law of Congress passed at that day prohibited slavery in what was known as the Northwest Territory.†

At this session the western portion of the Territory of Mississippi was erected into the new Territory of Alabama, over which Bibb, of Georgia, was appointed the first Governor, and authority given to the eastern portion to establish a constitution for the State of Mississippi.‡

The rapid development of the resources of the southwestern portion of the Confederacy, and the great profits likely to accrue from the cultivation of cotton, had revived the African

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\* Niles's Register, vol. xi. p. 256.

† Journal of Congress, 1787.

‡ Hild. Hist. of U. S., second series, vol. iii. p. 613; Niles's Register, vol. xi. p. 398.

slave-trade to such an extent as to receive special attention in the Annual Message of the President, with the hope that some steps would be taken by Congress to render the law as efficient as would be necessary. The legislation of Congress was directed to no further action than the enactment of more severe laws for the purpose of restraining the African slave-trade, which, nevertheless, was indulged in to some extent for years afterwards.

The African slave-trade was doubtlessly conducted with many scenes, alike abhorrent to Christian feelings and the dictates of humanity; but with all the objections which the civilized world very justly made to a further indulgence in this traffic, it is equally clear that a most important social, political, and commercial interest has been engrafted upon the policy of the United States, which has not only become permanent with us and produced the great development of the resources of the agricultural States, but tended in a large degree to meliorate the condition of the Old World, by making this country the great reservoir for supplying with wholesome and necessary food its starving population. The great and crowning glory of this much-abused system has not yet been written, though commenced, in the grand drama of the world's history, and when done it will prove that it will have been the means, and the only means known to man, of Christianizing the African continent. The planting in Liberia a colony of free blacks, with seeds of liberty and Christianity, nurtured and sustained by that enlightened principle under which it flourishes, is alone due to the American Colonization Society.

Experience has sufficiently demonstrated that it was, in a great measure, the mission of the black man to carry back to the home of his fathers those true principles of Christianity which, derived from the Bible, are the only means of giving a true and exalted position to the human family. The climate ever will present an impassable barrier to the white man, but to the black no such obstacle exists.

The most remarkable event about this time was the formation of the American Colonization Society at the City of Washington, under the auspices and assistance of such men as Henry Clay, John Randolph, Wright, of Maryland, Bushrod Washington, its president, and other slaveholders. The president and managers of this society memorialized Congress, in an address signed by Judge Washington, setting forth the objects in view and asking

Jan. 14,  
1817.

assistance. All connection with emancipation was disclaimed, except providing a place for the free blacks, in which the South was deeply interested. Many evils were likely to result from the anomalous position of this class of our population, the members of which were free men, but exposed to many evils in consequence of their degraded position, and the social and civil disabilities under which they must forever rest. The necessity of some such society was becoming still more pressing, because the laws of most of the States forbade the recently emancipated slaves to remain in the State; which was followed up by counter-legislation on the part of other States, forbidding the migration of free people of color into their borders. This memorial was referred to a committee, who suggested that a settlement might very properly be effected at Sierra Leone; and a resolution was reported authorizing the President to enter into negotiations with Great Britain for that purpose; but not meeting with that success from the Southern members which it merited, the resolution failed, and the society was left to its own efforts.\*

A bill to set apart and pledge as a permanent fund for internal improvements the bonus of the National Bank, and the United States share of its dividends, passed, at this session, both Houses of Congress.

Feb. 7,  
1817.

The constitutionality and expediency of internal improvements by the General Government was fully and ably discussed. The bill was reported to the House by a special committee, to whom the subject had been referred at an early part of the session, and was passed by a vote of 86 to 84. Calhoun was its most prominent advocate. He argued with great force and clearness not only its constitutionality, but demonstrated the policy and necessity of the adoption of a system of internal improvements by the General Government. "Abounding in pecuniary means," he inquires, "to what can we direct our resources and attention more important than internal improvements? What can add more to the wealth, the strength, and the political prosperity of our country?" He contended that the first power given to Congress is comprised in these words,—“To lay and collect taxes, duties, imposts, and excises; to pay the debts, and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform through-

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\* Niles's Register, vol. xi. p. 355.



out the United States." The Constitution gives the power to establish post-offices and post-roads. "I know," said Calhoun, "the interpretation given to these words confines our powers to that of designating only post-roads; but it seems to me that the word 'establish' comprehends something more. But suppose the Constitution to be silent, why should we be confined in the application of moneys to the enumerated powers?" He demonstrated that the uniform practice of our Government had been to appropriate money without reference to the enumerated powers, and cited examples in proof thereof.\*

Pickering stated he remembered that the supposition that Congress might, under the clause establishing post-roads, exercise the power of making roads in any State and where they pleased, was offered as a serious objection to the adoption of the Constitution, in the Convention of Pennsylvania, of which he was a member; and he answered the objection, observing, that the power to establish post-offices and post-roads could intend no more than the power to direct where post-offices should be kept, and on what roads the mails should be carried.†

Henry Clay, who had not a doubt upon his mind as to the constitutionality of the act, explained at some length the nature of the bill, which was merely to designate the fund to be set aside for internal improvements, and from time to time, as the proceeds of it came in, Congress could at some future day examine and decide upon the constitutionality of the question as it would arise.‡

The bill, as it passed both Houses of Congress, setting aside this fund for internal improvements, which was to be invested by the Secretary of the Treasury in United States Stock, until called for, was sent to the President, and by him returned with his objections.

Madison, who in his seventh and eighth Annual Messages had urgently recommended internal improvements to the attention of Congress, and who was extremely solicitous that there should be established in the District of Columbia a National University, vetoed the *Bonus Bill* because "the legislative powers vested in Congress are specified and enumerated in the 8th section of the First Article of the Con-

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\* Works of Calhoun, vol. ii. p. 186.

† Elliott's Debates, vol. iv. p. 487.

‡ Ibid.

stitution,—and it does not appear that the power proposed to be exercised by the bill is among the enumerated powers, or that it falls, by any just interpretation, within the power to make laws necessary and proper for carrying into execution those or other powers vested by the Constitution in the Government of the United States.”\*

On the same day that the bill received the veto of Madison, the effort was made to pass it, “notwithstanding the objections of the President.” It failed not only to obtain the constitutional vote of two-thirds, necessary under the circumstances to pass it, but fell below a majority of the House by four votes.†

The administration of James Madison had now reached its termination. After a long and eventful public career, he passed from the highest office in the country to the shades of private life, with a reputation for patriotism and every moral virtue surpassed by no public man of his day.

The condition of the country presented a bright picture of increasing prosperity. Our finances were in a most prosperous condition. We had during the year appropriated nineteen millions of dollars to reduce the debt incurred to obtain our independence; and advanced four millions more for the same purpose, in anticipation of the regular appropriation for 1818. The law for levying a direct tax was suffered to expire by its own limitation, with the prospect of a repeal of all internal duties at an early period.

The gallant army that lately snatched victory from the brave battalions of England, though reduced in numbers, was yet sufficient for every purpose. The illustrious and unrivaled navy had reached a degree of power and efficiency to sustain the star spangled banner over whatever waters it floated or wheresoever it waved.

Our manufactures were raising their heads and starting upon a career of success that would soon invite competition with the world. Our commerce had spread its sails to every breeze, with an export trade of more than eighty-five millions of dollars annually, with a yearly tonnage of one million three hundred and sixty-eight thousand.

The administration of Madison was the most trying to our constitutional form of Government that had occurred since its organization; more difficulties beset its pathway than

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\* Elliott's Debates, vol. iv. p. 488.      † Niles's Register, vol. xii. p. 26.

when the Ship of State was first launched on the troubled waters. The war which was ultimately so successfully waged and so honorably closed, at times threatened the integrity of our Union and the safety of our Constitution; not from the force of foreign aggression, for we were invincible from without, but from internal broils and domestic feuds; and if this Government is ever destroyed, it will be by the hands of its own people; all others combined can never move it from its firm foundation.

The American people will cherish and admire for many years the skill, the fortitude, and the eminent judgment displayed by Madison in the management of our Government during the war; the calm and considerate policy which restrained the passions of those citizens who opposed the war, and the bold and energetic manner in which the enemy were met, until victory proudly rested upon our banner. That the plan of the different campaigns were always the most judicious, is not asserted; for there should have been no invasion of Canada; that our army was always placed in the most judicious position for defence, is not maintained; if it had been, Washington would not have been the scene of British barbarity. But none can deny that the war was sustained and conducted with great foresight, prudence, and wisdom. It was vehemently contended by many able and distinguished statesmen, that our Constitution rendered the Government unfit for war, and that it would be destroyed if a conflict with a foreign nation ensued. Experience soon demonstrated that if the people of the United States were true and loyal, that the Constitution could accompany and defend them through the severest trials of war, unharmed and unpolluted.

The long political career of Madison demonstrated that he was a wise, skillful, and judicious statesman; yet his presidential career was not free from error. He temporized too long with Britain, and retarded for a while the development of our country by adhering to the embargo, instead of meeting the difficulty on the very threshold. It would have been better for the country had war ensued during the administration of Jefferson; and the only excuse for Madison is, that he too fondly hoped the difficulties could be settled without an appeal to arms.

The charge of inconsistency, which lies at the door of nearly every eminent statesman, is likewise visitable upon

Madison; but it can never be said, with truth, that he ever deviated from the path of moral rectitude or forsook the standard of the loftiest and most exemplary virtue.

In 1791 he expressly denied the power of Congress to establish banks; in 1815 he concedes the constitutionality of the bank-bill, though he vetoes it; in 1816 it receives his unqualified approval. It appears somewhat inconsistent in Madison, in all the erratic discussions of the powers of Congress, that he advocated the strictest construction of the Constitution; but when called to act practically, he obeyed the most latitudinous doctrines, especially in reference to the national bank, a protective tariff, and to some extent the policy of internal improvements by the General Government.

It is, however, a pleasing duty to be able to say of James Madison, as a Congressman, as a cabinet officer, as President of the United States, he faithfully sought the interest and did much to promote the welfare of his country, and whether in the position of honor and trust, or the quiet pursuits of a private citizen, honor and virtue were alike the auxiliary of a character preserved through life with a purity beyond the reach of slander or suspicion, the memory of which is not only loved and cherished by the sons of Virginia, but preserved in the deepest regard by the people of the United States.

Madison was well educated, and more studious through life than a majority of American politicians and statesmen; his political, historical, and philosophical reading were extensive. In his sixty-seventh year, when he retired from the Presidency to his country-seat in the County of Orange, he spent nearly the remnant of his days in great privacy and retirement. Wearied by habitual vigilance, and the weighty cares of the responsible position he had occupied, the lineaments of his face wore a cast of reflection and severity which gave him the appearance of more advanced age. The only public station he afterwards occupied, with the exception of being a visitor and rector at the University of Virginia, was a member of the convention of 1829, to revise the constitution of Virginia.

In the intercourse of private life, his warm and generous feelings, liberal and elevated sentiments, secured the affections of all who knew him. Laborious and indefatigable, simple in his manners, in his taste, and in his dress, he may



be said to have resembled, in these and other particulars, the sages of antiquity. Full of years and full of honors, he died in his eighty-seventh year, on the 28th day of June, 1836. Congress adopted resolutions of respect for his memory, and many addresses were delivered commemorative of his character and public services.

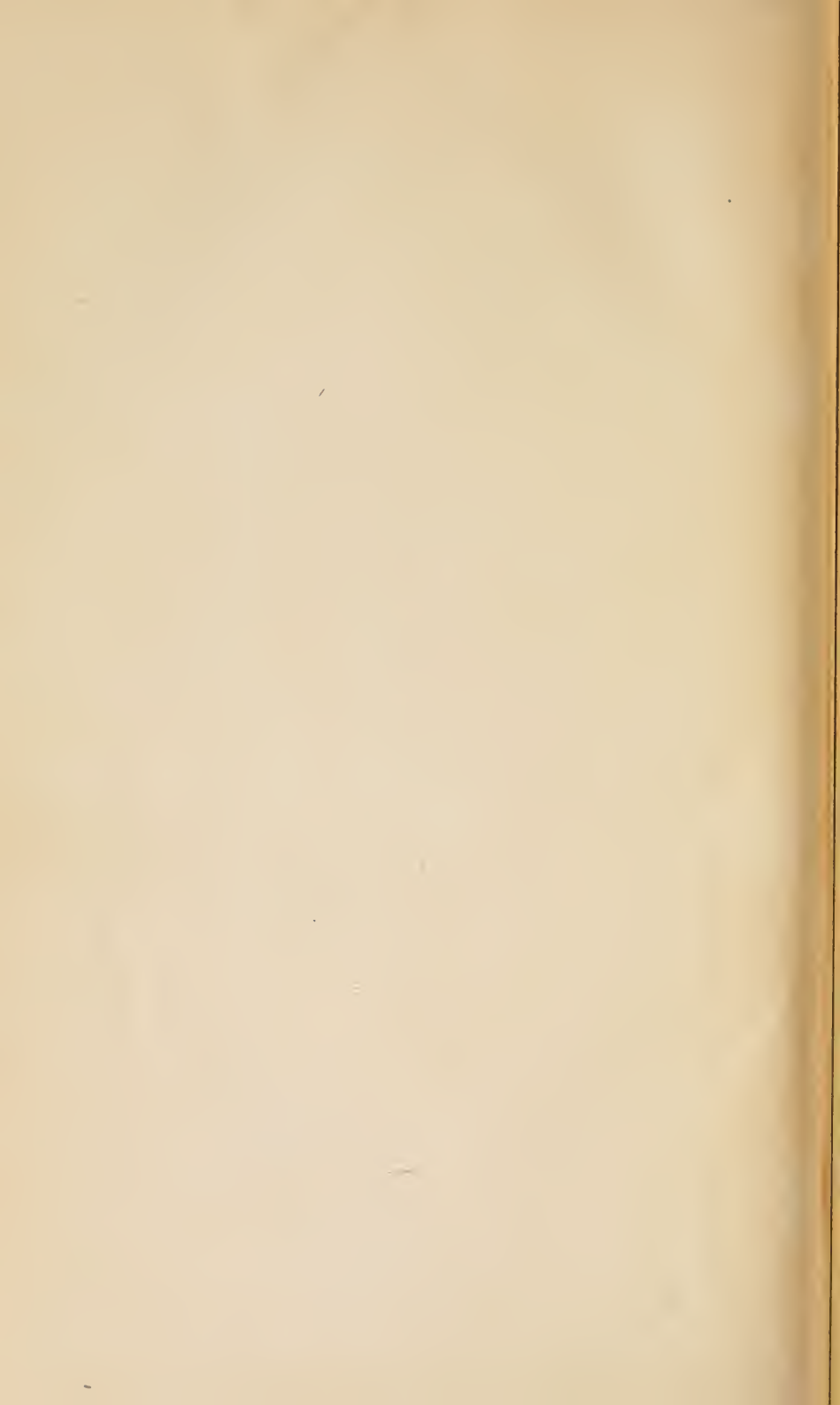
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W. A. Cooke

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